

DRAFT  
ENVIRONMENTAL IMPACT REPORT

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**SISTERS OF THE HOLY NAMES  
OF JESUS AND MARY  
100 PROSPECT AVENUE  
LOS GATOS, CALIFORNIA**

SUBDIVISION APPLICATION M-13-003  
ENVIRONMENTAL IMPACT REPORT EIR-13-002

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STATE CLEARINGHOUSE #2013082073

OCTOBER 2013



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OCTOBER 2013

PREPARED FOR  
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COMMUNITY DEVELOPMENT DEPARTMENT  
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# CHAPTER 1 INTRODUCTION

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## 1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

This Draft Environmental Impact Report (EIR) has been prepared by staff and consultants for the Town of Los Gatos, in compliance with the California Environmental Quality Act (CEQA) requirements. CEQA requires the preparation of a full disclosure document to inform the public, Town of Los Gatos (Lead Agency), and Responsible/Trustee Agencies of the direct and indirect environmental effects of the proposed project on the environment. This document also describes a reasonable range of potentially feasible alternatives to the project and must suggest potentially feasible mitigation measures that could reduce or eliminate any identified potentially significant impacts.

## 1.2 CEQA EIR PROCESS

This EIR assesses the environmental impacts of the proposed subdivision of 10.3 acres of into 17 lots for future development of single-family homes. The project site is located at 100 Prospect Avenue, west of Reservoir Road, and south and east of College Avenue. The property is currently developed with approximately ±85,000 square feet of space within various one-, two-, and three-story buildings that is used by the Sisters of the Holy Names of Jesus and Mary. Project implementation would include approval of a Vesting Tentative Tract Map that would allow for eventual demolition of existing structures on the site, and eventual development of 17 single-family homes, and related infrastructure (i.e., streets and utilities).

### 1.2.1 NOTICE OF PREPARATION AND SCOPING

A Notice of Preparation (NOP) for the EIR was prepared and issued on June 10, 2013 and the 30-day comment period extended from June 10, 2013 to July 10, 2013. At that time, the NOP was circulated to local and select state agencies and other interested parties. The NOP was then circulated to the State Clearinghouse where it was distributed to other State agencies for a 30-day comment period, which extended from August 23, 2013 to September 23, 2013, consistent with the requirements of CEQA. In response to the NOP, comments were received from the following agencies and individuals:

#### STATE AGENCIES

- California Department of Transportation (Caltrans; June 18, 2013 and July 2, 2013)
- California Department of Fish and Wildlife (CDFW; September 4, 2013)

#### LOCAL AGENCIES

- Santa Clara Valley Transportation Authority (VTA; June 13, 2013)

The NOP and all NOP comments received are included in **Appendix A**. Caltrans initially requested that a traffic impact study be completed and the project's impact on state highway facilities be determined. Additional comments by Caltrans related to vehicle trip reduction and the need for an encroachment permit for any work that encroaches on State right-of-way (ROW), which is not applicable to this project. In response, the Town submitted a project's trip generation study to Caltrans, and Caltrans revised their comments, indicating a traffic impact study was no longer required, recommending implementation of TDM measures wherever possible, and the need for an encroachment permit for any work within the State ROW. No work within the State ROW is proposed as part of this project or required for this project. CDFW reviewed the Biological Resources Assessment and had concerns with the protection measures for special status bat species. CDFW also requested that a bat biologist examine the buildings now in order to address any bat issues as soon as possible. In response to CDFW's request, surveys were completed by bat biologists and results of this survey are presented in Section 4.3, Biological Resources. The Santa Clara Valley Transportation Agency had no comments. Based on the NOP, comments received on the NOP, and requirements of the *CEQA Guidelines*, the following environmental topics are evaluated in detail in this EIR:

1. Land Use and Planning
2. Aesthetics
3. Biological Resources
4. Geology and Soils
5. Hydrology and Water Quality
6. Transportation and Traffic
7. Noise and Vibration
8. Air Quality
9. Greenhouse Gas Emissions
10. Hazards and Hazardous Materials
11. Cultural Resources
12. Public Services, Utilities, and Service Systems
13. Recreation
14. Energy Conservation
15. Cumulative Impacts
16. Alternatives

This EIR assessed the environmental impacts under the following remaining environmental topics included in Appendix G of the *CEQA Guidelines*: Agriculture and Forestry Resources, Mineral Resources, Population and Housing. This EIR determined that the proposed project would have a less-than-significant impact or no impact under these topics (see Chapter 5, Section 5.1, Effects Found Not to be Significant, for more discussion).

## 1.2.2 DRAFT EIR

This document constitutes the Draft EIR. It contains a description of the project, description of the environmental setting (existing conditions), identification of project impacts and mitigation measures for impacts found to be significant or potentially significant, and an analysis of project alternatives. This EIR addresses all environmental topics required by CEQA as well as issues that were raised in the NOP comments.

Significance criteria vary for each environmental issue analyzed in this EIR and are defined at the beginning of each impact analysis section. Impacts are categorized as follows:

- Significant and Unavoidable (significant impact that cannot be mitigated to a less-than-significant level with specified mitigation measures);
- Less than Significant with Mitigation (significant impact that is mitigated to a less-than-significant level with implementation of specified mitigation measures); and,
- Less than Significant (impact not significant or not significant with implementation of existing regulations or recommended conditions of approval).

Significance is the basis for determining whether or not mitigation, if any is feasible, is required for a potential impact. The ultimate determination as to whether the mitigation proposed in an EIR is “feasible” within the meaning of CEQA is made by agency decision-makers. The EIR is an informational document used by these decision-makers so that their actions will be consistent with the “substantive” duty under CEQA to substantially lessen all significant environmental effects where feasible through mitigation measures or alternatives. An EIR is therefore required to: (1) identify the potentially significant environmental effects of the proposed project on the environment; (2) indicate the manner in which those significant effects can be avoided or significantly lessened via the implementation of potentially feasible mitigation measures; (3) identify a reasonable range of potentially feasible alternatives to the proposed project that would eliminate or substantially lessen any significant environmental effects; and (4) identify any significant and unavoidable adverse impacts that cannot be mitigated or otherwise reduced.

## 1.2.3 PUBLIC REVIEW

The information in this report is subject to review by the Town, responsible and interested agencies, as well as the public for a period of 45 days. The EIR and all materials described as references in the topical sections of the EIR are available for public review at the following locations: Town of Los Gatos Community Development and Clerk Departments, 110 East Main Street, Los Gatos; Town of Los Gatos Library, 100 Villa Avenue, Los Gatos; and on the Town’s website: [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR).

Publication of this Draft EIR marks the beginning of the public review period, during which written comments will be received by the Town of Los Gatos at the following addresses:

Ms. Suzanne Avila  
Town of Los Gatos  
Community Development Department  
110 E. Main Street  
Los Gatos, CA 95030  
OR  
[SAvila@losgatosca.gov](mailto:SAvila@losgatosca.gov)

During the 45-day review period, persons are encouraged to comment on the contents of the Draft EIR, either during the Planning Commission public hearing if applicable or in writing to the Los Gatos Community Development Department.

#### **1.2.4 FINAL EIR CERTIFICATION AND ACTION ON THE PROJECT**

Following the close of the 45-day review period, relevant written and oral comments received on the Draft EIR will be responded to in writing in a Comments and Responses document. The Comments and Responses document, together with the Draft EIR, will constitute the Final EIR. After circulation of the Final EIR, the Planning Commission and Town Council will hold public hearings on the Final EIR to consider EIR certification.

The decision-making bodies of the Town are required to consider the information in this EIR, along with any other relevant information, in making their decisions about the proposed project. Although the EIR does not determine the ultimate decision that will be made regarding approval and implementation of the proposed project, CEQA requires the Planning Commission and Town Council to consider the information in the EIR, and, if they choose to approve the project, to make findings regarding each significant effect identified in the EIR. Under CEQA, a lead agency's decision-making process includes more than one step. The first step is to consider whether to "certify" the Final EIR for a proposed project. Notably, "certification" does not, by itself, indicate that decision-makers are intending to approve the project. Rather, although certification is a necessary precondition to project approval, it is possible for a decision-making body to certify a final EIR and then deny a project.

Certification of a final EIR is a three-part finding: first, that the "final EIR has been completed in compliance with CEQA"; second that the "final EIR was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the information contained in the final EIR"; and third, that the "final EIR reflects the lead agency's independent judgment and analysis." (*CEQA Guidelines* Section 15090)

After certifying a Final EIR, lead agency decision-makers are in a position to approve a project, if they so choose. In doing so, as described in CEQA and the *CEQA Guidelines*, they will be subject to the statutory duty to avoid or substantially lessen significant environmental effects, *where feasible*. This duty is effectuated through the adoption of statutorily-mandated findings adopted as part of the actions approving the project. These findings must address how agency decision-makers have dealt with each of the

significant effects of a proposed project. Possible findings are: (1) that the agency has adopted mitigation measures or alternatives to avoid or substantially lessen the significant effects; (2) that the effects can be, or have been, mitigated by other public agencies, which should adopt, or have adopted, measures to address the effects; or (3) that proposed mitigation measures or alternatives are infeasible. Even after imposing all feasible means of avoiding or substantially lessening such effects, however, a public agency may still approve a project with unmitigated significant effects, provided that the agency decision-makers issue a “Statement of Overriding Considerations” that identifies what decision-makers believe to be the project’s economic, social, technological, legal, and other benefits, including any regional or statewide benefits, that render the unmitigated effects “acceptable.”

### **1.2.5 MITIGATION MONITORING AND REPORTING**

In January 1989, California enacted Assembly Bill (AB) 3180, which requires lead agencies to “adopt a reporting and mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment.” Accordingly, Public Resources Code (PRC) Section 21081.6 requires that agencies adopt a Mitigation Monitoring and Reporting Program (MMRP) for any project for which it had made findings pursuant to PRC Section 21081, and the MMRP will be prepared in conjunction with the Final EIR. The MMRP will provide a list of all proposed project mitigation measures, define the parties responsible for implementation and review/approval, and identify the timing for implementation of each control measure. Any measures adopted by the Town as conditions for approval to mitigate environmental impacts of the project will be included in the MMRP to verify compliance. The MMRP must be adopted as part of the action adopting the Findings described in Section 1.2.4 above.

## **1.3 EIR ORGANIZATION**

Pursuant to *CEQA Guidelines*, Section 15120(c), this EIR contains the information and analysis required by Sections 15122 through 15131. The Draft EIR has been organized into the following sections:

**Chapter 1, Introduction.** The introduction describes the purpose of the EIR, the CEQA review and certification process, and organization of the EIR.

**Chapter 2, Summary.** This chapter summarizes the project description, significant environmental impacts that would result from project implementation, and mitigation measures proposed as part of the project or recommended by the EIR to reduce or eliminate impacts.

**Chapter 3, Project Description.** This chapter describes the project location and project sponsor’s and Town’s objectives, as well as providing a detailed project description.

**Chapter 4, Environmental Setting, Potential Impacts, and Mitigation Measures.** This chapter describes existing conditions in the vicinity of the project site, discusses project consistency with local plans and policies relevant to the environmental topics included in this chapter, identifies the

environmental impacts associated with project implementation, and presents mitigation measures for the significant and potentially significant impacts in this Draft EIR. References are included at the end of each section.

**Chapter 5, Other CEQA Considerations.** This chapter discusses several issues required by CEQA, including significant unavoidable impacts, growth-inducing impacts, cumulative impacts, and alternatives to the project.

**Chapter 6, Lead Agency and Consultants.** This chapter identifies the lead agency and includes a list of EIR preparers and their responsibilities.

**Appendices.** The appendices provide relevant reference material and data that support discussions in the EIR.

## 1.4 REFERENCE DOCUMENTS

This EIR relies on information from the documents listed below. The relevant portions of these documents have been briefly summarized in the appropriate sections of this EIR, along with a description of how the public may obtain and review these documents.

Documents referenced in this EIR include:

- Town of Los Gatos 2020 General Plan (September 2012), available online at <http://www.losgatosca.gov/index.aspx?NID=27>)
- Town of Los Gatos 2020 General Plan Final Environmental Impact Report (available online at <http://www.lggeneralplanupdate.org/content/los-gatos-final-environmental-impact-report-final-eir>)
- Los Gatos Town Codes (available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=25>)
- Los Gatos Sustainability Plan (available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=1860>)
- Hillside Development Standards and Guidelines (January 2004), available online at <http://www.losgatosca.gov/index.aspx?NID=1117>
- Hillside Specific Plan (August 1978), available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=1146>

In addition to being available online, the documents that are incorporated by reference are available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday, at the Los Gatos Community Development Department at 110 East Main Street.

# CHAPTER 2 SUMMARY

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## 2.1 PROJECT DESCRIPTION

The 10.3-acre project site is currently developed with approximately 85,000 square feet (s.f.) of building space, eight parking lots, driveways, paved paths, unpaved service roads, and various landscaped areas. The Sisters of the Holy Names of Jesus and Mary (the “Sisters”) currently own the project site. The existing facility operates under a Conditional Use Permit that allows for a wide range of institutional uses including housing, care facilities, educational uses, retreats, recreational activities, religious services, celebrations, common dining facilities, and other religious and community activities. The campus can accommodate 140 Sisters and includes an on-site Care Center and residential living units as well as administrative offices and common dining area, recreational facilities, educational facilities, a chapel, spiritual gathering spaces, and retreat facilities. Today, the campus is underutilized, with 66 Sisters living on campus. The Sisters’ convent facility has been and continues to be the primary housing, retirement residence, and care facility for aging Sisters throughout California.

The convent operates 365 days per year, 24 hours per day, and requires continuous staffing, including medical service providers and visiting physicians, and food and medical supply truck deliveries. On a daily basis, 65 employees travel to and from the campus in three separate shifts to care for the Sisters. The convent is also used as a full service retreat and meeting facility for the Sisters and other organizations, and can accommodate over 150 people, in addition to residents of the site, at any given time. In 2012, the Sisters held retreats, including religious services, on campus during more than 40 weeks, hosting a wide range of religious and other community organizations.

The project applicant, the Sisters, request approval of a proposed Vesting Tentative Tract Map application, which would allow for the eventual demolition of existing facilities on the 10.3-acre site and development of 17 single-family homes and related infrastructure. In addition to the 17 residential lots, public streets would be developed or improved for access to project lots. Of the 10.3-acre site, residential lots would comprise approximately (95%) of the site, while roads would comprise the balance (5%).

## 2.2 SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION

Based on analysis of the proposed project, technical studies completed by the applicant’s consultants, Town staff review, Town peer review consultant’s review, and environmental consultant review, the project would not result in any significant environmental impacts that could not be mitigated to a less-than-significant level with recommended mitigation measures. Assuming the applicant will implement all mitigation measures recommended in this EIR and referenced technical studies (included in the EIR appendix) and comply with the Town’s Conditions of Project Approval as specified, the environmental review process under CEQA could have been fulfilled by preparing an Initial Study/Mitigated Negative Declaration (IS/MND). While preparation of an IS/MND would be legally adequate, the applicant has elected to complete an EIR for this project in order to provide additional information, ensure that all

potential environmental impacts are thoroughly addressed and the project is evaluated for consistency with goals and policies of the Town's 2020 General Plan, Hillside Specific Plan, Los Gatos Sustainability Plan, and Hillside Development Standards and Guidelines.

Chapter 4 of the Draft EIR presents a description of the existing environmental setting, an analysis of environmental impacts resulting from development of the proposed project, and required or proposed mitigation measures. These impacts and mitigation measures are summarized in **Table 2-1**. Impacts are identified as either "Less Than Significant With Mitigation," "Less Than Significant," or "No Impact." If an impact is Less Than Significant With Mitigation, mitigation measures are identified to reduce the potentially significant impact to less-than-significant levels. Within Chapter 5 of the Draft EIR, Table 5-1 addresses the extent to which alternatives to the proposed project would mitigate the potentially significant effects found to be less than significant with mitigation associated with the proposed project.

Of the above impacts, those related to biological resources, noise, vibration, air quality, and cultural resources would occur during the project's demolition and construction phases only. Geotechnical constraints would relate to individual home designs and water quality impacts would be addressed by provision of on-site and/or off-site self-retaining treatment areas (pursuant to C.3 requirements). All of these impacts could be reduced to a less-than-significant level with implementation of mitigation measures included in this EIR. Construction-related mitigation measures specified in this EIR would include implementation of protective measures for special-status species, use of noise and air pollutant emissions controls on construction equipment, and archaeological monitoring during demolition.

Additional impacts identified in the EIR related to consistency with the Town's Tree Protection Ordinance, short-term increases in construction-related traffic on local roads, and cumulative impacts on schools. These potential impacts would be mitigated by regulations or conditions of project approval. Implementation of a Traffic and Safety Control Plan (required as a condition of project approval) and mandatory conformance with the Town's Tree Protection Ordinance (including implementation of tree replacement/protection measures specified by the Town's consulting arborist, which is also required as a condition of project approval) would reduce traffic and Ordinance conflict impacts to less than significant. Conformance with state regulations regarding schools (payment of fees pursuant to Section 65996(3)(h) of the California Government Code) would reduce this potentially cumulative contribution to a cumulative impact to less than cumulatively considerable.

Project implementation would result in beneficial impacts related to water quality since there would be a reduction in impervious surfaces and non-point source water quality protection measures (C.3), which do not currently exist on-site would be installed as part of project development. Also, the project would result in a reduction in traffic and population on the site, along with associated reductions in traffic-related noise and air quality emissions as well as reductions in demand for public services and utilities (including energy and related greenhouse gas emissions). In addition, the proposed residential use would be more compatible with the surrounding neighborhood than the existing operations, which require

**TABLE 2-1**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
<i>Land Use</i>		
4.1-1: The project would not physically divide an established community.	Less Than Significant	None Required
4.1-2: The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.	Less Than Significant	None Required
<i>Aesthetics</i>		
4.2-1: The project would not substantially affect scenic vistas.	Less Than Significant	None Required
4.2-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	Less Than Significant	None Required
4.2-3: The project would not substantially degrade the visual character or quality of the site and its surroundings.	Less Than Significant	None Required
4.2-4: The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	Less Than Significant	None Required

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
<i>Biological Resources</i>		
<p>4.3-1: Project development could have a substantial adverse effect, either directly or through habitat modification, to nesting special-status and other migratory birds identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.</p>	<p>Less Than Significant With Mitigation</p>	<p><b>4.3-1, Protection of Nesting Special-status and Migratory Birds:</b> In order to avoid impacts to special-status and migratory bird species during project implementation, the measures outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided.</p> <ol style="list-style-type: none"> <li>a. The removal of trees and shrubs shall be minimized to the extent feasible.</li> <li>b. If tree removal, pruning, grubbing and demolition activities are necessary, such activities shall be conducted outside of the breeding season (i.e., September 1 through January 31) to avoid impacts to nesting birds to the extent feasible.</li> <li>c. If tree removal, pruning, grubbing and demolition activities are scheduled to commence during the bird breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted by a qualified biologist. The survey shall be performed no more than two weeks prior to the initiation of work. The preconstruction survey shall include the grading footprint and up to a 250-foot buffer, where feasible, depending on access and lines of sight. If no active nests of special-status or other migratory birds are found, work may proceed without restriction and no further measures are necessary. If ground disturbance is delayed more than two weeks from the date of the preconstruction survey, the survey shall be repeated, if determined necessary by the project biologist.</li> <li>d. If active nests (i.e. nests with eggs or young birds present) of special-status or migratory birds are detected, the project biologist shall designate non-disturbance buffers at a distance sufficient to minimize disturbance based on the nest location, topography, cover, species, and the type/duration of potential disturbance. No work shall occur within the non-disturbance buffers until the young have fledged, as determined by a qualified biologist. Active nests of MBTA species identified should be protected by a 50-foot radius exclusion zone. Active raptor or special-status species' nests should be protected by a buffer with a radius of 200 feet. A minimum 500-foot exclusion buffer should be established around active</li> </ol>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.3-2: Project development could have a substantial adverse effect, either directly or through habitat modification, to special-status bats, identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.	Less Than Significant With Mitigation	<p>white-tailed kite nests. If, despite the establishment of a non-disturbance buffer it is determined that project activities are resulting in nest disturbance, work shall cease immediately and the CDFW and the USFWS Migratory Bird Permit Office shall be contacted for further guidance.</p> <p>e. If project activities must occur within the non-disturbance buffer, a qualified biologist shall monitor the nest(s) to document that take of the nest (i.e., nest failure) is not likely to result. If it is determined that project activities are resulting in significant nest disturbance, work shall cease immediately and the CDFW and the USFWS Migratory Bird Permit Office shall be contacted for further guidance.</p> <p><b>4.3-2, Protection of Roosting Bats:</b> In order to avoid impacts to special-status bat species during project implementation, the measures outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided.</p> <p>a. Impacts to suitable roost sites shall be avoided or minimized to the greatest extent feasible.</p> <p>b. If feasible, tree removal, pruning, grubbing and demolition of structures shall be conducted during the non-roosting season from September 1 to October 31. Preconstruction surveys consisting of visual inspections of trees and the exterior and interior of structures by a qualified bat biologist shall be conducted no more than 30 days prior to the start of work. The biologist will survey for evidence of previous roosting or occupation of bats within suitable habitat. Suitable bat roosting habitat includes man-made structures, snags, rotten stumps, mature trees with broken limbs, trees with exfoliating bark, bole cavities or hollows, and dense foliage. If evidence of bat roosting is not detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated. However, if evidence of roosting is observed during preconstruction surveys, the bat biologist shall, if necessary, specify protective measures as discussed below. Consultation with CDFW may be required to determine appropriate protective measures.</p> <p>c. If tree removal, pruning, grubbing and demolition of structures is scheduled</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>to occur during the hibernation season (i.e., November 1 through March 31), a preconstruction survey shall be performed by a qualified bat biologist. Emergence surveys are not effective at determining bat presence (due to suppressed flight and forage activities) during this period. Therefore, preconstruction surveys consisting of visual inspections of trees and the exterior and interior of structures shall be conducted no more than 30 days prior to the start of work. Suitable bat roosting habitat includes man-made structures, snags, rotten stumps, mature trees with broken limbs, trees with exfoliating bark, bole cavities or hollows, and dense foliage. If evidence of bat hibernation is not detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated.</p> <p>d. If evidence of bat hibernation or roosting is detected, the bat biologist shall specify protective measures shall be specified by the bat biologist. Potential protective measures that may be recommended by a qualified bat biologist include, but are not limited to establishing disturbance buffers around roosts and passive exclusion measures. The passive exclusion measures or buffer shall be determined by the type of bat observed, sensitivity of roost, type of potential disturbance, etc. Each buffer zone shall remain in place until the end of the hibernation season or until the bats leave on their own accord. The bat biologist shall confirm that bats have been excluded from the tree or building before work may commence.</p> <p>e. If tree removal, pruning, grubbing, and demolition of structures will occur during the maternity roosting period (i.e., April 1 through August 31), preconstruction emergence surveys shall be performed during this period by a qualified bat biologist. Suitable bat roost sites (e.g., large tree cavities, outbuilding perches) should be surveyed by way of evening emergence surveys and/or visual, internal and external inspections to determine presence/absence of bat maternity roosts. If no roost sites are detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated.</p> <p>f. If a maternity roost of any special-status bat species is determined to be present, as evidenced by the presence of roosting individuals or significant</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.3-3: Project development could have a substantial adverse effect, either directly or through habitat	Less Than Significant With Mitigation	<p>guano accumulations detected during the roost assessment or during pre-construction surveys, demolition activities may not proceed and a qualified bat biologist shall specify protective measures (as discussed above) in conjunction with CDFW.</p> <p>g. The eviction and relocation of a verified maternity roost for any special-status bat species shall conform to the following requirements:</p> <ul style="list-style-type: none"> <li>i. In consultation with CDFW, a qualified bat biologist shall design, construct and monitor a species-specific replacement roost and success criteria shall be established.</li> <li>ii. Baseline data shall be measured at the existing maternity roost. Baseline data that may be measured include, but are not limited to: size and configuration of roost, temperature, humidity, and solar exposure. These baseline data shall be used to inform the design of a species-specific replacement roost.</li> <li>iii. The replacement roost shall ideally be constructed on-site. If on-site construction is not feasible, the roost shall be constructed on nearby open space within suitable habitat.</li> <li>iv. Demolition of the maternity roost shall not resume until the replacement roost is constructed and sited.</li> <li>v. Long-term monitoring of any replacement roost shall be coordinated with CDFW. A successful replacement roost shall provide a similar range of abiotic conditions as the replaced roost. Baseline data collected from the roost to be replaced shall provide the range of abiotic conditions for long-term monitoring and criteria for success. If the success criteria are achieved corrective actions shall be outlined in the annual reports. All CDFW-approved corrective actions shall be implemented.</li> <li>vi. If an active roost is present, but determined not to be a maternity roost, the qualified bat biologist shall specify protective measures (as discussed above) in consultation with CDFW.</li> </ul> <p><b>4.3-3, Protection of San Francisco Dusky-footed Woodrat:</b> In order to avoid impacts to San Francisco dusky-footed woodrat during project implementation,</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
modification, to the special-status species San Francisco dusky-footed woodrat.		<p>the measures outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided:</p> <ol style="list-style-type: none"> <li>a. A qualified biologist shall perform a ground survey to locate and mark all woodrat nests in the proposed construction area, including structures. The survey shall be performed no less than 30 days prior to the initiation of ground disturbances. The Contractor shall walk the site to assist in determining which nests cannot be avoided. Nests to be avoided shall be fenced off with orange construction fencing and their locations marked on construction plans as being off limits to all activities.</li> <li>b. Any woodrat nest that cannot be avoided shall be manually disassembled by a qualified biologist, pending authorization from CDFW, to give any resident woodrats the opportunity to disperse to adjoining undisturbed habitat. Nest building materials shall be immediately removed off-site and disposed of to prevent woodrats from reassembling nests on-site unless otherwise directed by CDFW.</li> <li>c. To ensure woodrats do not rebuild nests within the construction area, a qualified biologist shall inspect the construction corridor no less than once per week. If new nests appear, they shall be disassembled and the building materials disposed of offsite. If there is a high degree of woodrat activity, more frequent monitoring shall be performed, as warranted.</li> <li>d. If a woodrat nest is discovered in structures during building demolition, construction work that will affect the nest shall be halted. A qualified biologist shall manually disassemble the nest, pending authorization from CDFW, to give resident woodrats the opportunity to disperse to adjoining undisturbed habitat. Nest materials shall be immediately removed off-site and disposed of to prevent woodrats from reassembling nests in buildings unless otherwise directed by CDFW. A qualified biologist shall survey the structure where the nest was discovered to confirm absence of woodrats dispersed from the dismantled nest. Halted demolition work shall continue when the qualified biologist has confirmed dispersal of woodrats from the structure to be demolished.</li> </ol>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.3-4: Project development would not substantially reduce the habitat of any wildlife species, cause any wildlife populations to drop below self-sustaining levels, threaten to eliminate a plant or animal community or substantially reduce the number or restrict the range of rare or endangered plant or animal species through the loss or fragmentation of habitats.	Less Than Significant	None Required
4.3-5: Project implementation would not impact oak woodland habitat, a sensitive natural community identified in the General Plan.	Less Than Significant	None Required
4.3-6: Project implementation would result in the removal of or adverse impacts on as many as 103 Protected trees on the project site, but would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Less Than Significant	None Required
4.3-7: Project development would not result in a substantial reduction of habitat for fish or wildlife species.	Less Than Significant	None Required
4.3-8: Project development would not substantially interfere with the movement of any native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.	Less Than Significant	None Required
<i>Geology and Soils</i>		
4.4-1: The proposed project could result in exposure of people and structures to potential adverse effects, including risk of loss, injury, or death involving strong ground shaking or landslides.	Less Than Significant With Mitigation	<b>4.4-1, Design-Level Geotechnical Investigation:</b> The Town shall require the applicant for each lot or each phase of a group of lots to submit a geotechnical report to the Town of Los Gatos for review and approval a design-level geotechnical investigation, once detailed lot and home designs are available prior to issuance of grading and building permit(s). The investigation(s) shall determine the surface and subsurface soil conditions at the site and assess the potential for ground shaking, slope stability under static

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>and seismic conditions, expansive soil, estimate of settlement, lateral movement and related effects. The investigation(s) shall address all soils engineering constraints and specify criteria and standards in accordance with the current California Building Code (CBC) for site grading, excavation, on-site utility trenching, drainage, pavement design, retaining wall design, erosion control, seismic design, and foundation design.</p> <p>For proposed Lots 3-8 and 4-17, which extend to the top of the moderate to steep slopes along the western property boundary, the investigation(s) shall include subsurface exploration and a slope stability analysis to evaluate the potential for static and seismic slope instability, along with any necessary mitigation to prevent slope instability. For lots with fill materials, the design-level geotechnical investigation(s) shall assess the potential for fills to become unstable and shall include recommendations for stabilization. The applicant for each lot or group of lots shall incorporate all recommendations of the design-level geotechnical investigation(s) into the each home design and implement appropriate construction methods on each lot in order to minimize the potential impacts resulting from regional seismic activity, estimate of settlement, lateral movements, slope conditions, and subsurface soil conditions on the site. A geotechnical expert shall be present during construction activities to observe earthwork and foundation construction, and shall conduct any necessary testing to confirm compliance with the recommendations of the design-level geotechnical investigation(s).</p>
4.4-2: The proposed project could result in substantial erosion, but could result in loss of topsoil.	Less Than Significant With Mitigation	<b>4.4-2, Top Soil Salvage:</b> The Town shall require the developers of individual lots to ensure that topsoil, if present, is salvaged during grading. The topsoil shall be stockpiled separately from subsoils, and the stockpiles shall be protected from erosion (e.g., by covering or watering). Once construction is completed, the stockpiled topsoil shall be reused for site restoration in open or garden areas of the lot.
4.4-3: The proposed project could cause a geologic unit to become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Less Than Significant With Mitigation	<b>4.4-3:</b> Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation.

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.4-4: The proposed project would be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code and could create a risk to life and/or property.	Less Than Significant With Mitigation	<b>4.4-3:</b> Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation.
<i>Hydrology and Water Quality</i>		
4.5-1: The proposed project would not violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.	Less Than Significant	None Required
4.5-2: The proposed project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.	Less Than Significant	None Required
4.5-3: Project implementation would not substantially alter the existing drainage pattern of the site or area by altering the course of a stream or incrementally increasing surface runoff from impervious surfaces in such a manner that could result in substantial erosion, siltation, or flooding on- or off-site.	No Impact	None Required
4.5-4: Project implementation would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or introduce new sources of polluted runoff.	Less Than Significant	None Required
<i>Transportation and Traffic</i>		
4.6-1: The project would not 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	Less Than Significant	None Required

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.		
4.6-2: The project would not conflict with the Santa Clara County Congestion Management Program.	Less Than Significant	None Required
4.6-3: The project would not substantially increase hazards due to a design feature or incompatible uses.	Less Than Significant	None Required
4.6-4: The project would not result in inadequate emergency access.	Less Than Significant	None Required
4.6-5: The project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	Less Than Significant	None Required
<i>Noise</i>		
4.7-1: Project construction could cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project due to operation of heavy equipment during construction.	Less Than Significant With Mitigation	<p><b>4.7-1, Administrative and Source Controls:</b> Prior to Grading Permit issuance, the project applicant shall demonstrate to the satisfaction of the Town of Los Gatos Public Works Department that the project complies with the following:</p> <ol style="list-style-type: none"> <li>a. Pursuant to the Town of Los Gatos Municipal Code Section 16.20.035, construction activities (including operation of haul and delivery trucks) shall occur between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Additionally, pursuant to Municipal Code Section 16.20.035(2) the Contractor shall demonstrate, to the satisfaction of the Town of Los Gatos Public Works Department, that construction noise shall not exceed 85 dBA outside of the property line. This shall be accomplished through the use of properly maintained mufflers and other state-required noise attenuation devices.</li> <li>b. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residents so that construction activities can be scheduled to</li> </ol>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>minimize noise disturbance. The plan shall also specify timing of notices to be mailed and posting of signs (i.e., mailing notices at least 15 days prior to commencement of construction of each phase, regarding the construction schedule of the proposed project, posting a sign, legible at a distance of 50 feet shall also be posted at the project construction site). All notices and signs shall be reviewed and approved by the Town of Los Gatos Public Works Department prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name for the contractor's Noise Disturbance Coordinator and a telephone number where residents can contact that person about the construction process and register complaints.</p> <p>c. The Contractor shall provide, to the satisfaction of the Town of Los Gatos Public Works Department, a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the Town within 24-hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Public Works Department.</p> <p>d. During construction, stationary construction equipment (e.g., concrete crusher, compressors, generators) shall be located as far as possible from adjacent residential receptors and equipment exhaust vents shall directed away from the closest residential receptors. In particular, the concrete crusher shall be placed west of the Siena Building or at a location where maximum shielding by buildings, material stockpiles, and topography can be provided and distance from all surrounding residences is maximized.</p> <p>e. All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</p> <p>f. "Quiet" air compressors, generators, and other stationary sources shall be utilized where technology exists.</p> <p>g. Equipment used for project construction should be hydraulically or</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>electrical powered impact tools (e.g., jackhammers, pavement breakers, and rock drills) wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust should be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves should be used where feasible, and this could achieve a reduction of 5 dBA. In addition, quieter procedures should be used such as drilling rather than impact equipment whenever feasible.</p> <p>h. At the property boundary with the adjacent residence at 88 Prospect Avenue, the contractor shall work directly with this resident (the closest residence to the site) to reduce construction-related noise impacts to the maximum extent feasible to ensure the 85-dBA ordinance limit is not exceeded. Implementation measures could include: providing noise attenuation such as solid wood fencing along the property boundary if feasible and acceptable to this resident; using smaller types of equipment during demolition of the tennis court; minimizing use of noisier types of heavy equipment (i.e. jackhammers, pavement breakers, rock drills) in proximity to this residence by immediately moving larger pieces of concrete to a location farther from this residence and other nearby residences).</p>
4.7-2: Project construction could expose people to or generate excessive groundborne vibration at adjacent residences during construction.	Less Than Significant With Mitigation	<b>4.7-2, Vibration Limits:</b> To prevent cosmetic damage at adjacent residences, the project contractor shall not use any equipment that generates vibration levels that exceed 0.5 in/sec PPV, the cosmetic damage threshold for transient vibration, when measured at the closest adjacent residential structures.
4.7-3: Occupation of proposed residences would not result in a substantial permanent increase in ambient noise levels in the project site vicinity or along local roadways, above levels existing without the project, including noise from existing convent-related activities already on-site.	Less Than Significant	None Required

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.7-4: The project could expose people to or generate noise levels in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies.	Less Than Significant With Mitigation	<p><b>4.7-4, Noise Attenuation Measures:</b> The following noise attenuation measures shall be incorporated into future home designs on proposed Lots 14-17 in order to maintain acceptable exterior and interior noise levels at future residences:</p> <ul style="list-style-type: none"> <li>a. When designing individual home plans for proposed Lots 14-17, noise-sensitive outdoor use areas shall be located away from the SR 17 freeway or noise-sensitive outdoor spaces shall be buffered from freeway noise with buildings, structures, solid fencing, berms or other attenuation measures. The specific noise attenuation measure(s) shall be determined and incorporated into the proposed home design during the Architecture &amp; Site review process, to the satisfaction of the Town that the measures meet the Town goal.</li> <li>b. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for residences located on Lots 14-17, so that windows could be kept closed at the occupant's discretion to control interior noise. The specific type of forced-air mechanical ventilation system shall be incorporated into future home designs during Architecture &amp; Site review process, to the satisfaction of the Town that the measure meets the Town goal.</li> </ul>
<i>Air Quality</i>		
4.8-1: Project-related criteria pollutant emissions would not conflict with or obstruct implementation of the applicable Air Quality Plan.	Less Than Significant	None Required
4.8-2: Project construction could violate an air quality standard or contribute substantially to an existing or projected air quality violation.	Less Than Significant With Mitigation	<p><b>4.8-2, BAAQMD Basic Construction Mitigation Measures:</b> Prior to issuance of any Grading or Demolition Permit, the Town Engineer and the Chief Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that the following basic construction measures be implemented as specified in the BAAQMD Guidelines during all project construction (including individual lot development):</p> <ul style="list-style-type: none"> <li>a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> </ul>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<ul style="list-style-type: none"> <li>b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>d. All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes. Clear signage shall be provided for construction workers at all access points.</li> <li>g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>h. Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.</li> </ul>
4.8-3: Project operations would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.	Less Than Significant	None Required
4.8-4: Project implementation could expose sensitive receptors to substantial pollutant concentrations.	Less Than Significant With Mitigation	<p><b>4.8-4: Emission Reduction Measures.</b> Use of Tier 4 engines for all compressors and all diesel-fueled equipment used during the building construction phases to minimize emissions. Such equipment selection would include any combination of the following measures as the Town determines to be necessary to decrease cancer risks below the threshold of 10 excess cancer cases in one million for infants:</p> <ul style="list-style-type: none"> <li>a. Diesel-powered compressors and all diesel-fueled equipment used during</li> </ul>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>building construction shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent;</p> <p>b. Use alternative-powered equipment (e.g., LPG-powered forklifts);</p> <p>c. Use alternative fuels (e.g., biofuels), added exhaust devices, and/or</p> <p>d. Minimize the number of hours that equipment will operate including the use of idling restrictions.</p>
4.8-5: Project implementation would not create objectionable odors affecting a substantial number of people because they would be temporary and would not affect a substantial number of people.	Less Than Significant	None Required
<i>Greenhouse Gases</i>		
4.9-1: The project would not generate greenhouse gas emissions, either directly or indirectly, that would not have a significant impact on the environment.	Less Than Significant	None Required
4.9-2: The project would not conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing greenhouse gas emissions.	Less Than Significant	None Required
<i>Hazards and Hazardous Materials</i>		
4.10-1: The proposed project could result in a significant hazard to the public or the environment through the routine use and disposal of household hazardous wastes.	Less Than Significant With Mitigation	<p><b>4.10-1, Implement Buyer Education Program for Household Hazardous Waste:</b> The project sponsor, working with the Town of Los Gatos and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, developing materials to educate buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal. At a minimum, the educational materials shall include a list of example household hazardous wastes, discuss the environmental impacts of improper disposal, explain how to make an appointment for disposal, and list safer and less toxic alternatives to hazardous products commonly used. The educational materials shall be provided to the buyer at the time of purchase.</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
4.10-2: The project could create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials to the environment during building demolition.	Less Than Significant With Mitigation	<p><b>4.10-2, Hazardous Building Materials Surveys and Abatement:</b> Prior to demolition of each building, the project applicant shall ensure that a hazardous building materials survey is completed by a Registered Environmental Assessor or a registered engineer for the building exteriors, roof, and any interior areas that were inaccessible during the previous limited survey. Any friable asbestos-containing materials or lead-containing materials identified by the previous survey or any surveys conducted in accordance with this mitigation measure shall be abated using practices such as containment and/or removal prior to demolition, and the abatement shall be implemented in accordance with applicable laws. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the BAAQMD, and 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.</p> <p>Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.</p>
4.10-3: The project could create a hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment during soil excavation and subsequent site use.	Less Than Significant With Mitigation	<p><b>Mitigation Measure 4.10-3, Corrective Action:</b> The following measures shall be required to reduce public health risks related to removal and disposal of hazardous materials to a less-than-significant level. The oversight agency review may amend these measures as applicable.</p> <p>a. Prior to any soil disturbance activities or building demolition at the site, the project applicant shall participate in the Voluntary Cleanup Program (VCP) administered by the Santa Clara County Department of Environmental Health for technical oversight of any remedial action to address contaminants in the soil, unless referred to an alternate agency. Oversight includes all aspects of the site investigation and remedial action, determination of the adequacy of the site investigation and remediation activities at the site, and determination of the need for confirmation soil</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>sampling once contaminated soil is excavated.</p> <p>b. Prior to sale of individual lots, the applicant shall submit a “no further action” letter from the oversight agency or comparable closure document that demonstrates the site has been released as clean or a mitigation plan has been approved and implemented.</p> <p>c. The project applicant shall require the construction contractor(s) to implement a Soil Management Plan (SMP) prepared by the project applicant’s environmental consultant and approved by the overseeing regulatory agency. The SMP shall include a plan for disposal of excess soil produced during construction activities, including on-site management of excavated soil, the disposal methods for soil, potential disposal sites, and requirements for written documentation that the disposal site will accept the excess soil. If appropriate, excess soil may be disposed of on-site, under foundations or in other locations in accordance with applicable hazardous waste classifications and disposal regulations, if approved by the regulatory oversight agency. The contractor shall be required to submit the SMP to the project applicant for acceptance prior to implementation. Prior to or during construction, excess soil from construction activities shall be sampled to determine the appropriate disposal requirements in accordance with applicable hazardous waste classification and disposal regulations. The project applicant shall also submit the SMP to the County of Santa Clara Department of Environmental Health a minimum of 30 days prior to the planned start of construction,</p> <p>d. The project applicant shall require the construction contractor to prepare and implement a site safety plan identifying the chemicals present, potential health and safety hazards, monitoring to be performed during site activities, soils-handling methods required to minimize the potential for exposure to harmful levels of the chemicals identified in the soil, appropriate personnel protective equipment, and emergency response procedures.</p> <p>e. The project applicant shall require the construction contractor(s) to have a contingency plan for sampling and analysis of potential hazardous</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		materials and for coordination with the appropriate regulatory agencies, in the event that previously unidentified hazardous materials are encountered during construction. If any hazardous materials are identified, the contractor(s) shall be required to modify their health and safety plan to include the new data, conduct sampling to assess the chemicals present, and identify appropriate disposal methods. Evidence of potential contamination includes soil discoloration, suspicious odors, the presence of USTs, or the presence of buried building materials.
4.10-4: The project would not to 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.	Less Than Significant	None Required
<i>Cultural Resources</i>		
4.11-1: Project implementation would not affect any historical resource as defined in CEQA Guidelines Section 15064.5.	No Impact	None Required
4.11-2: Demolition and construction activities on the project site could cause a substantial adverse change in the significance of unknown subsurface archaeological resources including disturbance of human remains.	Less Than Significant With Mitigation	<p><b>4.11-2a, Archaeological Monitor:</b> An archaeologist experienced with historic-era archaeological deposits and late 19th to early 20th century material culture and human remains shall be present during building demolition of designated areas (refer to confidential Map 1 of Holman study, which is on file at the Los Gatos Community Development Department) to monitor for any historic-period buried features, such as artifact-filled wells, privies, and pits associated with the earlier historical use of the property from the late 19th and early 20th centuries.</p> <p>Based on the monitor's findings during demolition, the monitor shall review specific development plans for roads and infrastructure and eventually for future homes (during Architecture and Site review) and evaluate the need for additional archaeological monitoring by a qualified historical archaeologist.</p> <p>In the event cultural resources are discovered during removal of existing buildings, parking lots and landscaping areas or during construction of proposed improvements, a preliminary evaluation of the find should be</p>

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
		<p>conducted by a qualified archaeologist with appropriate measures taken commensurate with the type of cultural resource identified and the amount of proposed impacts. A buffer zone, typically 100 feet in diameter, should be established to protect the find until it can be evaluated, and the area should be secured to prevent looting. A plan for the evaluation of the resource shall be submitted to the Community Development Director for approval. Evaluation normally takes the form of limited hand excavation and analysis of materials and information removed to determine if the resource is eligible for inclusion on the California Register of Historic Resources (CRHR). No demolition/construction activity should continue in this area until the qualified archaeologist has sufficiently documented and excavated the discovery in the field, and has authorized continued demolition/construction.</p> <p><b>4.11-2b, Identification of Eligible Resources.</b> If an eligible resource (i.e., an historical resource or a unique archaeological resource) is identified, a plan for mitigation of impacts to the resource shall be submitted to the Community Development Department for approval before any additional construction-related earthmoving can occur inside the zone designated as archaeologically sensitive. Whether the proposed plan is feasible shall be determined by the Community Development Department after consideration of the viability of avoidance in light of project design and logistics. In lieu of avoidance, mitigation could include additional hand excavation to record and remove for analysis archaeological materials, combined with additional archaeological monitoring of soils inside the archaeologically sensitive zone.</p> <p>Section 21083.2(f) specifies that unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after the applicant receives the final approval necessary to begin physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable. The above listed mitigation measures can be effectively performed in a manner that complies with Section 21083.2.</p>
4.11-3: Demolition and construction activities on the project site could directly or indirectly destroy a	Less Than Significant with Mitigation	<b>4.11-3, Halt Construction and Evaluate Resource:</b> Prior to the commencement of construction activities, the project applicant shall provide

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
unique paleontological resource or site or unique geological feature.		<p>for a qualified paleontologist to provide construction personnel with training on procedures to be followed in the event that a fossil site or fossil occurrence is encountered during construction. The training shall include instructions on identification techniques and how to further avoid disturbing the fossils until a paleontological specialist can assess the site. An informational package shall be provided for construction personnel not present at the meeting.</p> <p>In the event that a paleontological resource (fossilized invertebrate, vertebrate, plan or micro-fossil) is found during construction, excavation within 50 feet of the find shall be temporarily halted or diverted until the discovery is evaluated. Upon discovery, the Community Development Director shall be notified immediately and a qualified paleontologist shall be retained to document and assess the discovery in accordance with Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and determine procedures to be followed before construction is allowed to resume at the location of the find. If the Community Development Director determines that avoidance is not feasible, the paleontologist will prepare an excavation plan for mitigating the project's impact on this resource, including preparation, identification, cataloging, and curation of any salvaged specimens.</p>
<i>Public Services and Utilities</i>		
4.12-1: Redevelopment of the project site with new single-family residential uses would require continued fire protection services for future residents, visitors, and property improvements, as has been required for existing uses on the site; new or physically altered governmental facilities would not be required to provide adequate fire and emergency medical protection services for the proposed project.	Less Than Significant	None Required
4.12-2: The proposed residential use would require police protection services for future residents, visitors, and property improvements, as has been	Less Than Significant	None Required

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
required for existing uses on the site; the project would not result in substantial adverse physical impacts associated with the provision of new or physically altered police facilities.		
4.12-3: The proposed residential project would generate new students, but would not contribute substantially to the cumulative increase in demand for educational services within the service area of the Los Gatos Union School District and the Los Gatos-Saratoga Union High School District and would not result in substantial adverse impacts associated with the provision of new or physically altered facilities.	Less Than Significant	None Required
4.12-4: The proposed project would not incrementally increase water demand within the service area of the San Jose Water Company and would not require or result in the construction of new water facilities or expansion of existing facilities; sufficient water supplies are available to serve the project from existing entitlements and resources.	Less Than Significant	None Required
4.12-5: The project site currently generates wastewater flows requiring collection and treatment by West Valley Sanitary District Facilities; construction of the proposed residential use would require continued wastewater services and District facilities have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	Less Than Significant	None Required
4.12-6: Demolition of structures on the project site would generate extensive amounts of solid waste. Development of proposed single-family residential	Less Than Significant	None Required

**TABLE 2-1 (CONTINUED)**  
**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<b>Potential Impact</b>	<b>Significance</b>	<b>Mitigation Measure</b>
use would result in the generation of solid wastes requiring recycling and/or disposal at local landfill sites, in compliance with federal, state, and local statutes and regulations related to solid waste.		
<i>Recreation</i>		
4.13-1: Development of the proposed project would not increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated.	Less Than Significant	None Required
4.13-2: Development of the proposed project would not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.	Less Than Significant	None Required
<i>Energy</i>		
4.14-1: Demolition of existing buildings and construction of the new residential uses would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner.	Less Than Significant With Mitigation	<b>4.14-1:</b> Mitigation Measure 4.8-2. BAAQMD Basic Construction Measures.
4.14-2: Operation of residences would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner.	Less Than Significant	None Required

continuous staffing for its year-round 24-hours per day, 7 days per week, commercially-oriented operations and result in large numbers of visitors driving to the site for religious services , retreats, care services and housing for the Sisters.

### **SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS**

All significant and potentially significant impacts, if any exist, for the proposed project would be mitigated to a less-than-significant level with implementation of mitigation measures included in this EIR. There are no significant and unavoidable adverse impacts that would occur as the result of the proposed project.

### **GROWTH-INDUCING IMPACTS**

As required by Section 15126.2(d), an EIR must discuss ways in which a proposed project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment. The EIR must also discuss the characteristics of the project that could encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. Growth can be induced in a number of ways, such as through the elimination of obstacles to growth, through the stimulation of economic activity within the region, such as through construction jobs, or through the establishment of policies or precedents that directly or indirectly encourage additional growth.

With demolition of the existing convent facilities and development of 17 single-family residences, the proposed project would not induce any new net growth in the local population. The Association of Bay Area Governments (ABAG, 2009) estimates that Los Gatos' population will increase to 30,000 by 2020 from its current population 28,810, an increase of 4 percent. This increase represents an annual growth rate of approximately 0.41 percent, which is a decrease from the Town's one percent growth rate during the past three decades (Town of Los Gatos, 2010a). The proposed 17-unit project would replace 66 persons currently residing on the site with approximately 41 new residents, representing a 38% decrease in population for the site. This reduction in population would represent a less-than-significant growth-inducing impact to the Town's population.

### **CUMULATIVE IMPACTS**

*CEQA Guidelines* Section 15130 requires the analysis of cumulative impacts that may be associated with the proposed project when they are potentially significant. According to *CEQA Guidelines* Section 15355, "Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." Project-specific impacts which are considered individually minor may be significant when combined with the environmental effects of other projects; significant cumulative impacts must be addressed, but not necessarily in "as great detail" as the discussion of project-related impacts.

The geographic scope and method of the cumulative analysis varies by resource area because the influence of cumulative impacts varies by resource. The geographic scope of the cumulative air quality analysis is regional (San Francisco Bay Area Air Basin), while the geographic scope of the cumulative energy resources analysis is state wide and cumulative greenhouse gas analysis is both state-wide and global. For analysis with large geographic scopes, the Plan Method is used. The cumulative impacts related to aesthetics, biological resources, geology/soils, hydrology/water quality, traffic, noise and vibration, hazards/hazardous materials, and cultural resources, are typically site-specific in nature and depend on conditions within the site vicinity. For these topics, the List Method offers the appropriate analysis method, but only those projects located in the project's immediate vicinity are included. For the evaluation of cumulative impacts on public services, utilities, and recreation, the geographic scopes vary with each service agency's service boundary, which is the Town of Los Gatos boundary in some cases, and the Plan Method was used.

When compared to existing (baseline) Convent operations on the project site, project implementation would result in a decrease in operational traffic and associated noise, air quality, and greenhouse gas emissions. In addition, the proposed residential project would result in a reduction in population, which also would result in a reduction in demand for all public services, utilities and service systems, and recreational facilities (except schools, which were found to be able to accommodate the students that the project would generate). Under the remaining resources topics such as biological resources and water quality, the project's contribution to cumulative impacts was determined to be less than cumulatively considerable.

## **ALTERNATIVES**

Based on review of the proposed project, technical studies completed by the applicant's consultants, Town staff review, and Town peer review consultant's review, and environmental consultant review, the project would not result in any significant environmental impacts that could not be mitigated to a less-than-significant level with recommended mitigation measures.

This EIR considered four alternatives: (1) No Project Alternative, (2) Residential Care Facility Alternative, (3) Reduced Density Alternative, and (4) Mitigated Project Alternative. The Residential Care Facility Alternative was reviewed on a preliminary basis and then rejected when it was determined to be infeasible because it would increase impacts on the surrounding neighborhood. The three remaining alternatives were evaluated in Section 5.5 in detail and impacts associated with each of these alternatives are compared to the impacts of the proposed project in Table 5-4. In summary, some the impacts under these alternatives would be less than the proposed project while others would be greater, and all but one of these alternatives would not meet some of key project objectives.

**No Project Alternative.** Under the No Project Alternative, the proposed project would not be developed and the environmental impacts identified in this report (summarized above) would be avoided. This

alternative would avoid the above short-term impacts related to proposed demolition and construction activities. However, at the same time, the long-term beneficial impacts identified above would not occur.

The existing facility would continue to operate as it currently operates today (24 hours per day, 7 days per week year-round). However, the Sisters have indicated that the existing facility is not sustainable because the aging population of Sisters has required on-site facilities to be upgraded in order to provide adequate healthcare and eldercare services. Therefore, it is reasonable to expect that continued operation of this facility by the Sisters or at its current level is not likely to occur. If the Sisters were to relocate, as proposed, to other assisted living and skilled nursing care facilities in the area and vacate on-site facilities, the sale of the property with existing Conditional Use Permit would allow site facilities to continue to operate in the same manner (as a retreat or residential facility), but for a new property owner (i.e. different organization). Since the existing facility can accommodate up to 140 residents, but there are only 66 Sisters, any change in ownership or operator at this facility could result in an increase in the number of residents when compared to today's condition. While this increase in residents is allowed under the existing Conditional Use Permit, it could increase traffic levels in the neighborhood (and associated noise and air emissions increases) as well as increase demand for public services and utilities when compared to existing (baseline) conditions. Even so, such increases and reductions would occur under this alternative, these changes would be less than significant since they are allowed under the existing Conditional Use Permit and part of the existing (baseline) condition.

With continued operation of existing facilities by the Sisters unlikely, most of the above-listed project objectives would not be met. Under the No Project Alternative, the need for updated facilities would continue to persist and interior remodeling by any operator, including the Sisters, would be required at a minimum (which would not necessarily be subject to environmental review). There could also be a requirement for additional facilities on-site. In addition, with continued pressure for more housing in the region, it is likely that future proposals involving redevelopment of this project would be likely. With any future redevelopment, adjacent residents would be subject to short-term traffic and noise increases associated with any future remodeling work.

For these reasons, the No Project Alternative has the potential to result in greater environmental impacts overall (when compared to existing conditions), than the proposed project, Reduced Density Alternative, and Mitigated Project Alternative.

**Reduced Density Alternative.** The existing General Plan and Zoning Designation for the site would allow for up to 21 single-family homes on the site. The project proposes 17 single-family lots. The Reduced Density Alternative would result in the same proposed demolition activities and similar future development of the project site except that one lot (#17) would be eliminated. Elimination of this lot would result in the enlargement of adjacent and nearby Lots #14 through #16. Presumably larger houses could be accommodated on these enlarged lots. This alternative would reduce short-term construction-related noise and vibration impacts at the adjacent residence (88 Prospect Avenue), although it would not avoid these impacts entirely because demolition of the existing tennis court, which is when construction

equipment would operate in closest proximity to this existing residence, would still occur. All other aspects of the Reduced Density Alternative would be the same as the proposed project.

This alternative would meet five of the seven principal project objectives related to development of a residential project (#1 through #5 listed above), but a smaller project would not necessarily meet the last two objective, which is to provide the maximum funding possible for future living and healthcare expenses of the Sisters and to meet the Sisters' moral and ethical obligations to one another. Financial feasibility of this alternative is unknown.

Since this alternative would be essentially the same as the proposed project (except that three instead of four lots would be developed at the north end of Prospect Avenue), most of the impacts under this alternative would be the same as the proposed project and all mitigation measures required for the project would also be required under this alternative. Adjacent residents would be subject to the same short-term traffic, noise, vibration, and air quality impacts associated with demolition of existing facilities (including demolition-related noise and vibration impacts at the adjacent residence at 88 Prospect Avenue). In addition, the same potential construction-related impacts on special-status species as well as unknown subsurface archaeological and paleontological resources would still occur under this alternative.

This alternative would slightly decrease impacts under the following topics that were determined to be less than significant or mitigated to a less-than-significant level with mitigation measures specified in the EIR: aesthetics, tree removal, and construction-related noise, vibration, air quality impacts (depending on the proximity of the future home on enlarged Lot #16). The project's beneficial impacts related trip reductions would also be slightly greater with one less lot. However, the significance determination of these impacts would not change under this alternative, mitigation measures specified in this EIR would still be required under this alternative, and this alternative would not substantially reduce identified impacts.

**Mitigated Project Alternative.** This alternative would consist of the proposed project, but with all mitigation measures specified in this EIR incorporated into project plans. With inclusion of all specified mitigation measures, all impacts under this alternative would be less than significant. Since all identified impacts would be mitigated to less than significant, the impacts under this alternative would be less than the proposed project, as indicated in Table 5-4. Incorporation of all mitigation measures would not change the proposed project. Therefore, this alternative would meet all seven of the project objectives. Under this alternative, all identified impacts under the project would be substantially reduced by specified mitigation measures and therefore, all impacts would less than significant.

**Environmentally Superior Alternative.** An EIR is required to identify the Environmentally Superior Alternative from a range of reasonable and feasible alternatives evaluated in the EIR [Section 15126.6 (e) (2)]. If the Environmentally Superior Alternative is the "No Project" Alternative, the EIR shall also identify an Environmentally Superior Alternative among the other alternatives. The Environmentally Superior Alternative would be the alternative that results in fewer environmental impacts.

Section 5.5, Alternatives, compares the impacts of these alternatives with the proposed project and a tabular comparison summary is presented in Table 5-4. The No Project Alternative would avoid demolition/construction-related impacts, but would have greater traffic and associated noise and air quality impacts. The Residential Care Facility Alternative would result in greater impacts than the proposed project. Of the two remaining alternatives, both would have fewer impacts than the proposed project without mitigation. However, all of the mitigation measures specified in this EIR would have to be required under the proposed project or the Reduced Density Alternative, while the Mitigated Project Alternative already includes all of the EIR mitigation measures.

When compared to the proposed project, the Reduced Density Alternative could reduce the significant short-term noise impact on the existing residence at 88 Prospect Avenue, and slightly reduce other already less-than-significant impacts related to aesthetics and compliance with the Town's Tree Protection Ordinance. In addition, the beneficial traffic impacts and associated noise, air quality, and greenhouse gas impacts under Reduced Density Alternative would be slightly greater. Although the proposed project could reduce these impacts to less than significant with mitigation measures specified in this EIR or these impacts were identified as less than significant in the EIR, the Reduced Density Alternative could be considered to be the Environmentally Superior Alternative. However, this alternative would not meet two of the principal project objectives (provide the maximum funding possible for Sisters' housing and care to enable the Sisters to meet their moral and ethical obligation to one another) and financial feasibility of this alternative is unknown.

The deciding body has the authority to approve the proposed project over the Environmentally Superior Alternative if the body finds that the mitigation measures recommended for the project will be adopted and will reduce the potentially significant impacts to less-than-significant levels. As noted above, all potentially significant impacts associated with the proposed project could be reduced to less than significant with the adoption of recommended mitigation measures.

### **AREAS OF CONTROVERSY**

Section 15123(b) of the CEQA Guidelines requires the EIR Summary to identify areas of controversy known to the Lead Agency and issues to be resolved. The public noticing process was used to inform the public and public agencies regarding the plans for the proposed residential development. A Notice of Preparation (NOP) for the EIR was prepared and issued on June 10, 2013 and the 30-day comment period extended from June 10, 2013 to July 10, 2013. Comment letters were received from the California Department of Transportation (Caltrans) and Santa Clara Valley Transportation Agency (VTA). No other comments, either from public agencies or the general public, were received concerning specific issues that would need to be addressed in the EIR.

In response to the NOP, Caltrans initially requested the completion of a traffic impact study and an evaluation of the project's impact on state highway facilities. Additional comments by Caltrans related to vehicle trip reduction and the need for an encroachment permit for any work that encroaches on State

right-of-way (ROW), which is not applicable to this project. In response, the Town submitted a project trip generation study to Caltrans, and Caltrans revised their comments, indicating a traffic impact study was no longer required, recommending implementation of TDM measures wherever possible, and the need for an encroachment permit for any work within the State ROW. No work within the State ROW is proposed as part of this project or required for this project.

The Santa Clara Valley Transportation Agency had no comments. In response to the NOP, no other areas of concern or controversy were identified.

### **ISSUES TO BE RESOLVED**

This EIR addresses the impacts of the proposed project. Specific activities that were evaluated in this EIR include proposed removal of existing on-site facilities and future road, infrastructure, and lot development. Since the designs of future homes on individual lots are currently unknown, the impact assessment in this EIR is based on the conceptual designs presented in Chapter 4 of this EIR (i.e., building footprints shown in Figure 3-4, the conceptual grading and drainage plan). When specific home designs for individual lots become available in the future, these plans will be reviewed by the Town as part of the Architecture and Site (A&S) review process. During the A&S review process, specific tree removal, aesthetics, grading and other design-related issues will be determined and reviewed by the Town.

# CHAPTER 3 PROJECT DESCRIPTION

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## 3.1 PROJECT LOCATION

The subject property is located at 100 Prospect Avenue, and is situated west of Reservoir Road and east of College Avenue. The property is located at the northern terminus of Prospect Avenue. There are several driveways along Prospect Avenue that provide access to various existing buildings located on the subject property. Residential neighborhoods bound the property on all four sides (north, south, east, and west). The project site's location is indicated in **Figure 3-1**.

## 3.2 BACKGROUND

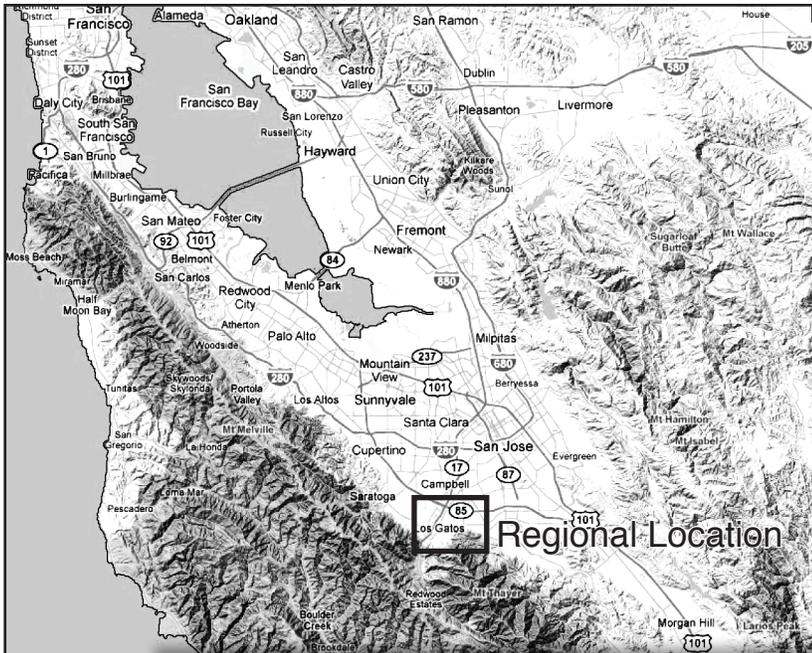
The Sisters of the Holy Names of Jesus and Mary in California began in 1868 when six Sisters from the foundation house in Quebec, Canada arrived by ship and train in Oakland, CA. The Sisters established their first convent and school on the shores of Lake Merritt. They established many schools in Oakland and San Francisco, including Holy Names College in 1926 and Holy Names High School in 1931, which both still operate in Oakland. The Sisters ultimately moved the convent from Oakland to Fremont during World War II, and then purchased the subject property in 1945. The Los Gatos Convent opened in 1952. There are 1,000 Sisters of the Holy Names worldwide, with 169 Sisters residing in California. The Convent can accommodate up to 140 residents, but there are currently only 66 Sisters residing at the Convent.

Since the Sisters' arrival in Los Gatos more than 65 years ago, they have served and supported the residents of Los Gatos and the region through their mission of education, social justice, contemplation, and the arts. The Sisters have served as members, visitors, and residents of the Town through education, retreats, celebrations, pastoral, and other activities at the convent and in the community. The Sisters helped found St. Mary's School in downtown Los Gatos in 1954 and have educated thousands of children as both teachers and administrators. For nearly 30 years, the Sisters sponsored Casa Maria Montessori School at the Los Gatos Convent, providing education for hundreds more children.

## 3.3 PROJECT OBJECTIVES

Section 15124(b) of the *CEQA Guidelines* requires that an EIR include "a statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project."

The Los Gatos Convent has been and continues to be the primary housing, retirement residence, and care facility for aging Sisters from throughout California. The aging population of Sisters has required facilities at Los Gatos Convent to be upgraded in order to provide adequate healthcare and eldercare



Regional Location



PROJECT SITE



services, which has changed and undergone technological advancements in recent years. Therefore, key objectives of the project applicant, Sisters of the Holy Names of Jesus and Mary, are as follows:

1. Create a residential subdivision that is consistent with the uses and scale of development in the surrounding neighborhood.
2. Create a project that is consistent with the site's General Plan designation of "Low Density Residential" and the site's Zoning Code designation of "R-1:20" (including zoning requirements for lot size, set backs and street dimension standards) returning the site to its residential roots.
3. Allow construction of 17 single-family homes on the project site that are sized similar to those in the surrounding area.
4. Redevelop the site, while maintaining its natural topography and landscaping (or enhancing landscaping) to the extent feasible.
5. Create a project that does not substantially increase traffic in the surrounding residential neighborhood.
6. Create a project that maximizes the funding available for current and future skilled care, assisted living, home health and other medical care for all of the Sisters who are part of the State of California, Sisters of the Holy Names of Jesus and Mary.
7. Create a project that enables the Sisters to acquire quality skilled and assisted living as part of their moral and ethical responsibility to each other.

### 3.4 TECHNICAL PROJECT DESCRIPTION

#### 3.4.1 EXISTING FACILITIES

The 10.3-acre project site is currently developed with approximately 85,000 square feet (s.f.) of building space, eight parking lots, driveways, paved paths, unpaved service roads, and various landscaped areas. The two largest buildings, Marian and Siena, are approximately 72,000 s.f. and consist of 100 bedrooms for senior living, a chapel, dining facilities, retreat/conference facilities, and supporting facilities. There are separate administrative offices and other outbuildings on the campus (Stone House, Cortona, Regional Office, and Seraphine), totaling approximately 14,000 s.f. A breakdown of building sizes and heights on the site are as follows:

<u>Building Number</u>	<u>Building Name</u>	<u>Areal Extent</u>	<u>Number of Stories</u>
1	Marian Building	35,559	3
2	Siena Building	35,735	3
	Sub-total	71,294	
3	Stone House	812	1
4	Cortona Building	1,659	2
5	Seraphine Building	4,496	1
6	Regional Office	7,106	2
	<b>Total</b>	<b>85,367</b>	

The existing facility operates under a Use Permit that allows for a wide range of uses including housing, care facilities, educational uses, retreats, recreational activities, Masses, celebrations, common dining facilities and other religious and community activities. The campus can accommodate 140 Sisters including the on-site Care Center and residential living units as well as administrative offices and common dining, recreation, education, Chapel, spiritual gathering, and retreat facilities. Today, the campus is underutilized, with 66 Sisters living on campus. The Los Gatos Convent has been and continues to be the primary housing, retirement residence, and care facility for aging Sisters throughout California.

The Convent operates 365 days per year, 24 hours per day, and seven days per week with staffing, medical service providers and visiting physicians, food and medical supply truck deliveries. On a daily basis, 65 employees travel to and from the campus in three separate shifts to care for the Sisters. The Convent is also used as a full service retreat and meeting facility for the sisters and other organizations, and can accommodate over 150 people at any given time. In 2012, the Sisters held retreats on campus during more than 40 weeks, hosting a wide range of religious and other community organizations, including daily Mass.

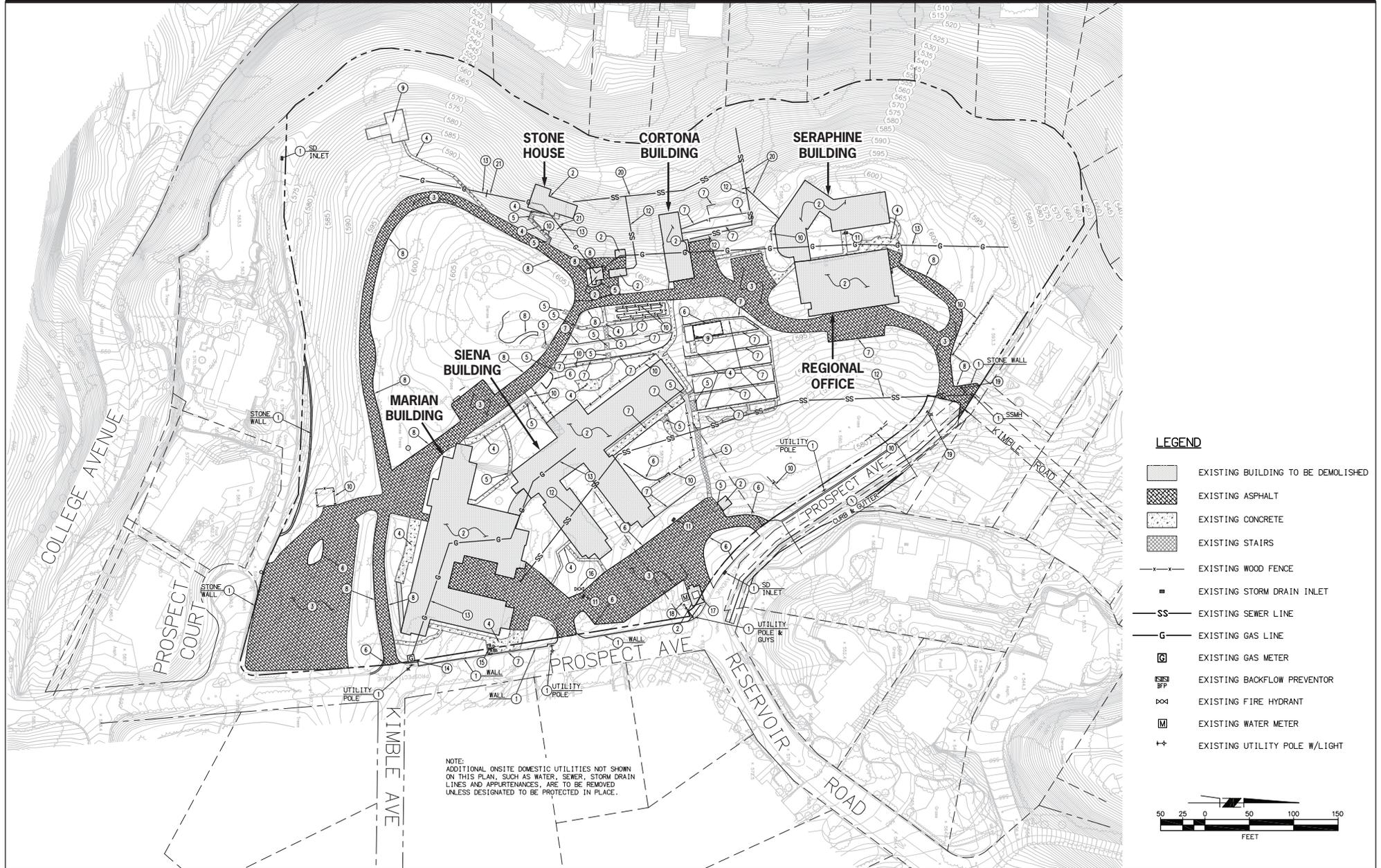
The Sisters also own the Villa Holy Names, a 1.5-acre non-contiguous property located at the north end of Prospect Avenue. This property includes several homes that serve as residences for Sisters and for retreats for their guests. Villa Holy Names will be retained by the Sisters and is not part of this project.

### **3.4.2 PROPOSED PROJECT**

The project applicant, Sisters of the Holy Names of Jesus and Mary, is requesting approval of a proposed Vesting Tentative Tract Map application, which would allow for the eventual removal of existing facilities on the 10.3-acre site and development of 17 single-family homes and related infrastructure. In addition to the 17 residential lots, public streets would be developed or improved for access to project lots. Of the 10.3 acre site, residential lots would comprise approximately (95%) of the site, while roads would comprise the balance (5%)

#### **Demolition of Existing Facilities**

The following existing facilities on the subject property are proposed to be demolished or removed: 11 structures, asphalt paving (68,600 s.f.), concrete (12,090 s.f.), stairs (930 s.f.), curb (1,080 s.f.), retaining wall (1,645 s.f.), stone wall (1,520 s.f.), wood deck and pavilion, wood fence (1,100 s.f.), and 3 storm drain inlets, sewer line (795 feet), gas line (973 feet), 1 gas meter, 1 backflow preventer, 1 fire hydrant, 1 water pump (inside structure), 1 water meter, 2 utility poles, and various on-site domestic utilities (including water, sewer, storm drain lines, and appurtenances). In addition, existing sewer lines (317 feet) and gas lines (96 feet) are proposed to be abandoned in place. **Figure 3-2** indicates locations of proposed demolition.



Approximately 2,967 cubic yards of debris would be hauled off-site using 45-cubic yard haul trucks, while an additional 2,000 cubic yards of soils would be off-hauled using 20-cubic yard trucks (Buccaneer, 2013). Some of the concrete debris would be crushed and temporarily stored on-site for use as base rock for new roads, driveways, and/or building pads where appropriate. A total of 258 truckloads of demolition debris (including wood, drywall, carpet, vinyl, ceramic, plaster, glass, metal, concrete, asphalt, and green waste) and 100 truckloads of soil would be hauled off-site. A preliminary Traffic Control and Safety Plan has been prepared by the applicant. The Final Plan will be subject to review and approval by the Town's Engineering Department and Police Department. The preliminary Plan includes the following:

- Haul trucks would be required to use on-/off-ramps on State Route (SR) 9 (Los Gatos Saratoga Road) to access the SR 17 freeway, but could use the freeway ramps on Lark Avenue if necessary. Haul trucks, however, would be prohibited at all times from using SR 17 freeway ramps on Santa Cruz Avenue.
- The truck access route to/from SR 17 would be SR 9, Los Gatos Boulevard, and Main Street. From Main Street, inbound trucks will travel a short distance on College Avenue, then turn east on Cleland Avenue, immediately south on Reservoir Road, and then turn either north or south on Prospect Avenue to access the site. Outbound (full) trucks return to Main Street by turning south on Prospect Avenue and west on College Avenue.
- Haul trucks would be allowed to operate between 9:00 a.m. and 4:00 p.m., Monday through Friday.
- When school is in session, truck operations on Main Street may be prohibited between 2:15 p.m. and 2:45 p.m., if required by the Town, to allow school-related traffic to dissipate from Main Street and the immediate vicinity.
- If required by the Town, truck operations could also be prohibited during special events.
- Trucks would be required to travel in groups of up to three vehicles at 15-minute intervals. Truck groups shall be staged at a location outside of the Town of Los Gatos.
- One-way traffic control for trucks would be implemented on sections of College Avenue and the entire lengths of Prospect Avenue and Reservoir Road when trucks are traveling on these road sections.
- Flagpersons would be employed at intersections and road sections with limited sight lines for traffic control/safety.
- Prior to the start of construction, all affected residents and emergency services would be notified specifying dates and hours of operation and one-way routing plans.
- Prior to the start of construction, the applicant would hold pre-construction meetings with affected neighbors to review the dates and hours of operation and one-way routing plan.
- In coordination with the Town, the applicant would provide a designated and protected pedestrian lane on the balance of College Avenue, as determined by the Town's Engineering Department and Police Department.

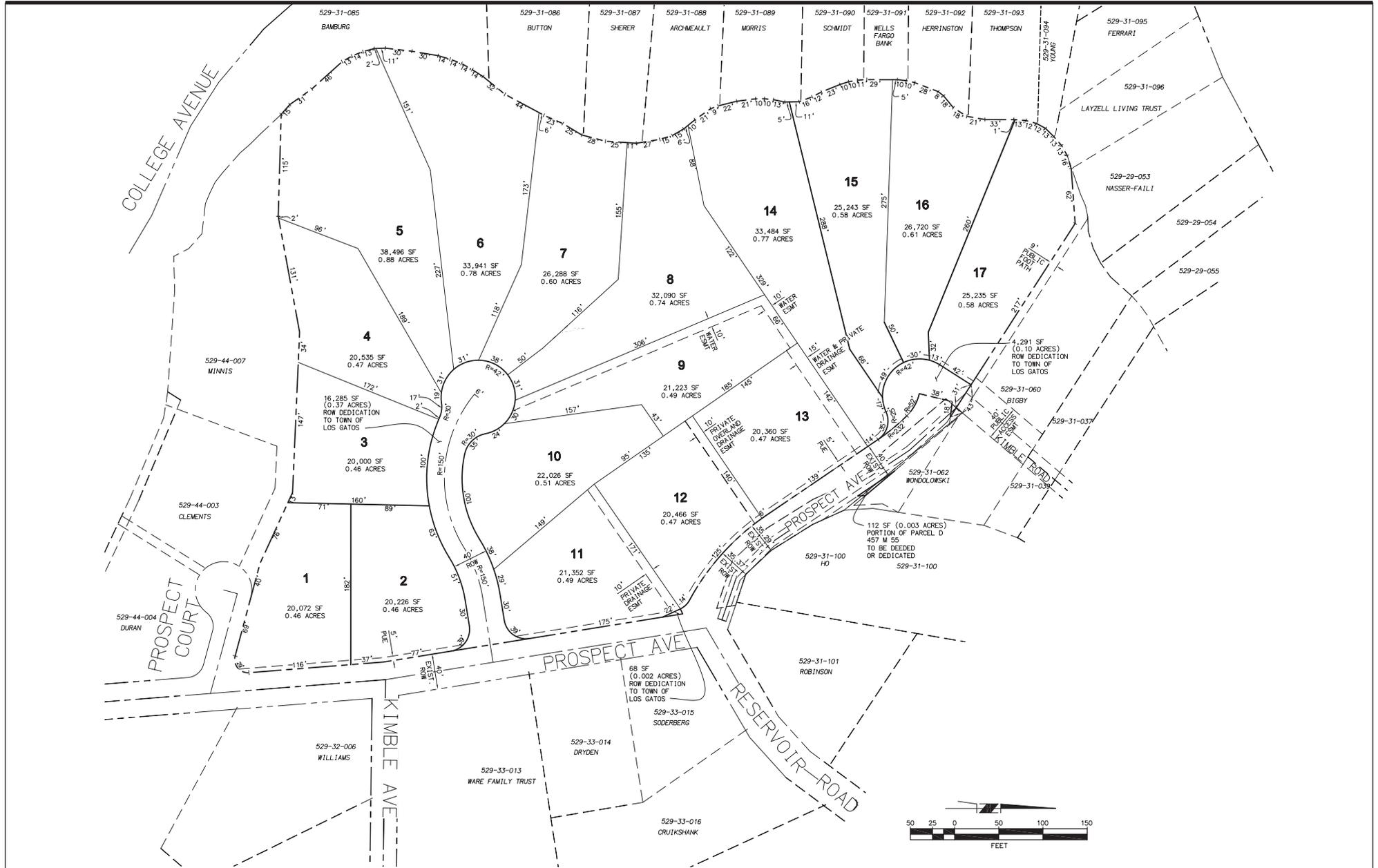
- Prior to the start of project demolition/construction activities, the applicant would post signs adjacent to the creek trail and open space trailheads with information regarding the dates and hours of operation and the one-way routing plans.

### Residential Lots

**Table 3-1** summarizes proposed sizes of the 17 residential lots. As indicated in this table, proposed residential lots would be approximately ½ acre or larger in size, ranging between 0.46 (20,072 s.f.) and 0.88 acres (38,496 s.f.). Proposed lots would comprise 95% of the project site (about 9.8 acres). The proposed Vesting Tentative Tract Map is presented in **Figure 3-3**.

**TABLE 3-1**  
**SUMMARY OF AREAL EXTENT OF PROPOSED DEVELOPMENT**

Proposed Lots	Proposed Lot Sizes	
	Square Feet	Acres
Lot 1	20,072	0.46
Lot 2	20,226	0.46
Lot 3	20,000	0.46
Lot 4	20,535	0.47
Lot 5	38,496	0.88
Lot 6	33,941	0.78
Lot 7	26,288	0.60
Lot 8	32,090	0.74
Lot 9	21,223	0.49
Lot 10	22,026	0.51
Lot 11	21,352	0.49
Lot 12	20,466	0.47
Lot 13	20,360	0.47
Lot 14	33,484	0.77
Lot 15	25,243	0.58
Lot 16	26,720	0.61
Lot 17	25,235	0.58
Southern Cul-de-Sac (Dedicate Right-of-Way to Town)	16,285	0.37
North End of Prospect Avenue (Dedicate Right-of-Way to Town)	4,291	0.10
Right-of-Way along Prospect Avenue (Dedicate to Town)	68	0.002
<b>Total Project Site Area</b>	<b>448,401</b>	<b>10.3</b>



Following Town approval of the proposed Vesting Tentative Map for the property, the project applicant intends to sell the property (including the buildings) to a developer, who would then demolish the buildings, construct roadways and infrastructure, and then develop or sell individual home sites.

Design standards for future residences would be dictated by the Town's Zoning Ordinance and Hillside Development Standards and Guidelines. The development of the site must comply with these standards as well as policies and standards outlined in the Los Gatos General Plan and Los Gatos Zoning Ordinance. Compliance will be determined by the Town through the Architecture and Site ("A&S") approval process, which will occur as each lot is proposed for development. Therefore, the design of individual homes on each project lot is not specifically evaluated in this EIR. If proposed development on individual lots does not conform to these requirements (i.e., not located within the building envelopes specified on the Vesting Tentative Map, as indicated on Figure 3-3), additional environmental review would be required. Conceptual building envelopes are indicated on Figure 3-4, and they would be located on slopes of less than 30% (within the Least Restrictive Developable Area; see Figure 4.1-2 for LRDA boundary) and within previously developed areas (areas covered by Convent facilities or landscaped gardens).

### **Roadways**

Project development would include development of one cul-de-sac near the southern project boundary and a turnaround bulb at the north end of Prospect Avenue along the northern project boundary (Figure 3-3). The southerly cul-de-sac would have a 40-foot wide right-of-way (ROW), pavement width of 30 feet, and rolled curb. The 40-foot wide ROW conforms to Town of Los Gatos public street requirements and would be dedicated to the Town so that the cul-de-sac would be a public street. The project would also include addition of a turnaround bulb at the northern end of Prospect Avenue. ROW dedications to the Town would cover approximately 5% of the project site (about 0.5 acre). The road grade on the southern cul-de-sac is proposed to be 9% or less.

Conceptual driveway locations are indicated on Figure 3-4. Access driveways for nine of the proposed lots would be on Prospect Avenue, which extends along the project's eastern boundary. Driveway access to the remaining eight lots would be from a cul-de-sac proposed near the southern boundary. While driveway locations are conceptual, their grades vary from 2% to 12%.

### **Grading and Drainage**

The conceptual grading and drainage plan is shown in **Figure 3-4**, and the limits of grading are indicated on this plan. For initial project development, grading activities would be associated with proposed demolition. After demolition has been completed, roads and utilities would be constructed immediately after. If lots are sold separately, then grading activities would occur with construction of each single-family home. There are three retaining walls (4 feet high) indicated on the grading plan at the ends of both cul-de-sacs, where driveways for Lots 7, 16, and 17 meet the cul-de-sac. According to project plans (dated June 6, 2013), the total grading quantity on-site would be approximately 7,900 cubic yards (c.y.) of cut and 5,900 c.y. of fill, resulting in a net export of approximately 2,000 c.y. of soils.

# CONCEPTUAL GRADING AND DRAINAGE PLAN

# FIGURE 3-4



Sections B and C are presented in **Figure 3-5** (section locations are indicated on Figure 3-4), and they show the elevation changes from west to east across the southern (Section B) and northern (Section C) portions of the site.

The grading plan indicates that private drainage easements would cross three of the proposed lots (within building setback areas and outside building envelopes) where the rear of the buildings/lots would drain off-site toward an adjacent lot. Impervious surfaces would be designed to direct surface runoff generated on project lots to underground storage facilities and/or pumps (drainage design on each lot would be subject to separate A&S review as each lot is proposed for development and each lot's drainage design must conform with Town of Los Gatos design regulations).

The proposed C.3 Stormwater Conceptual Plan is presented in **Figure 3-6**. This plan indicates that proposed lots would have self-retaining areas where runoff from impervious surfaces (i.e., rooftops and driveways) would be directed to pervious landscaping using a maximum 2:1 ratio of impervious area to the receiving pervious area. The pervious area would be designed to pond up to 3 inches in depth prior to overflowing. Self-retaining areas would be constructed on each lot when it is developed.

Since each lot would retain its own runoff, drainage improvements would be constructed as part of each lot development. Drainage facilities to be constructed as part of initial road and utility development would be limited to on-site C.3 treatment areas adjacent to Lots 2, 11, and 14 (as indicated in Figure 3-6) for runoff from project roads, public storm drains, and two private area drains on Lots 9 and 10 (see discussion below under Project Utilities).

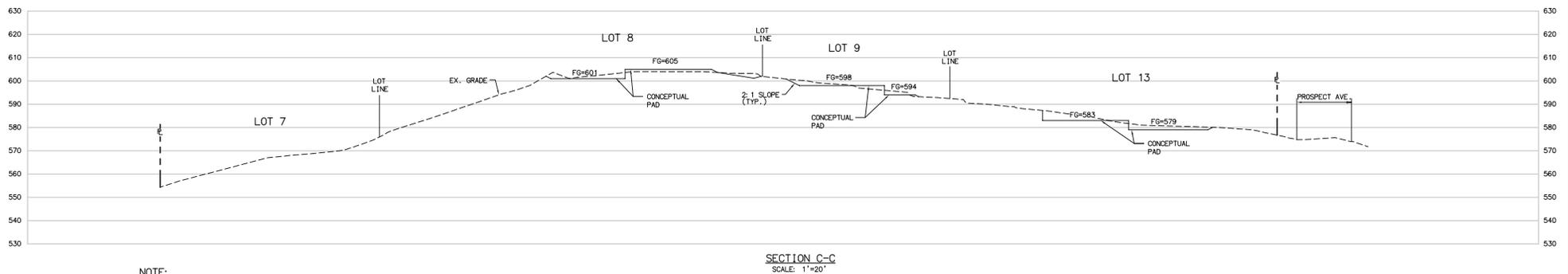
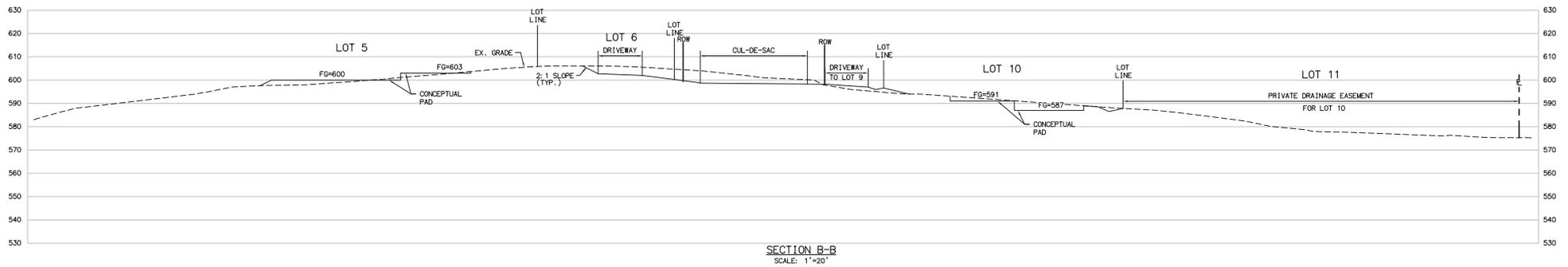
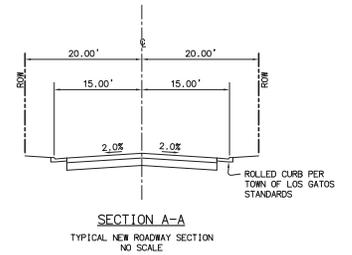
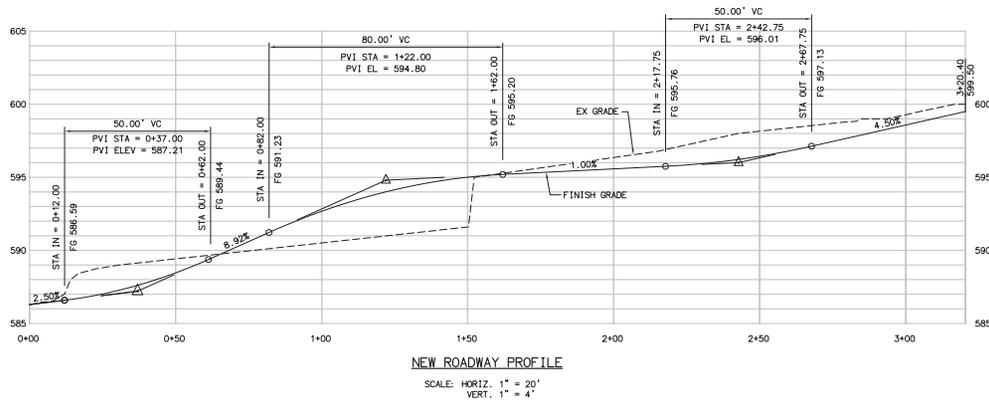
### **Project Utilities and Easements**

A conceptual utility plan is presented in **Figure 3-7**. Water service to the project area is provided by the San Jose Water Company (SJWC), while sewer service would be provided by the West Valley Sanitation District (WVSD). Other service agencies include: Pacific Gas & Electric (PG&E) for gas and electric services, and Comcast for cable and telephone service.<sup>1</sup> These agencies provide service to residential development surrounding the project site.

While there are existing water and sanitary sewer lines as well as storm drain facilities on the project site, they would be demolished and removed as part of proposed demolition. There are also water, sewer, and storm drain facilities in Prospect Avenue and Reservoir Road, currently serving adjacent residential development. As part of project implementation, new 8-inch water lines would be extended along the proposed cul-de-sac and Prospect Avenue (between the southern project boundary and Reservoir Road), connecting with an existing water line in Prospect Avenue (at Reservoir Road). New 8-inch sewer lines also would be extended along the proposed cul-de-sac, Prospect Avenue (along the entire site frontage), and a  $\pm$ 450-foot section of Reservoir Road.

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<sup>1</sup> Verizon also provides telephone service.

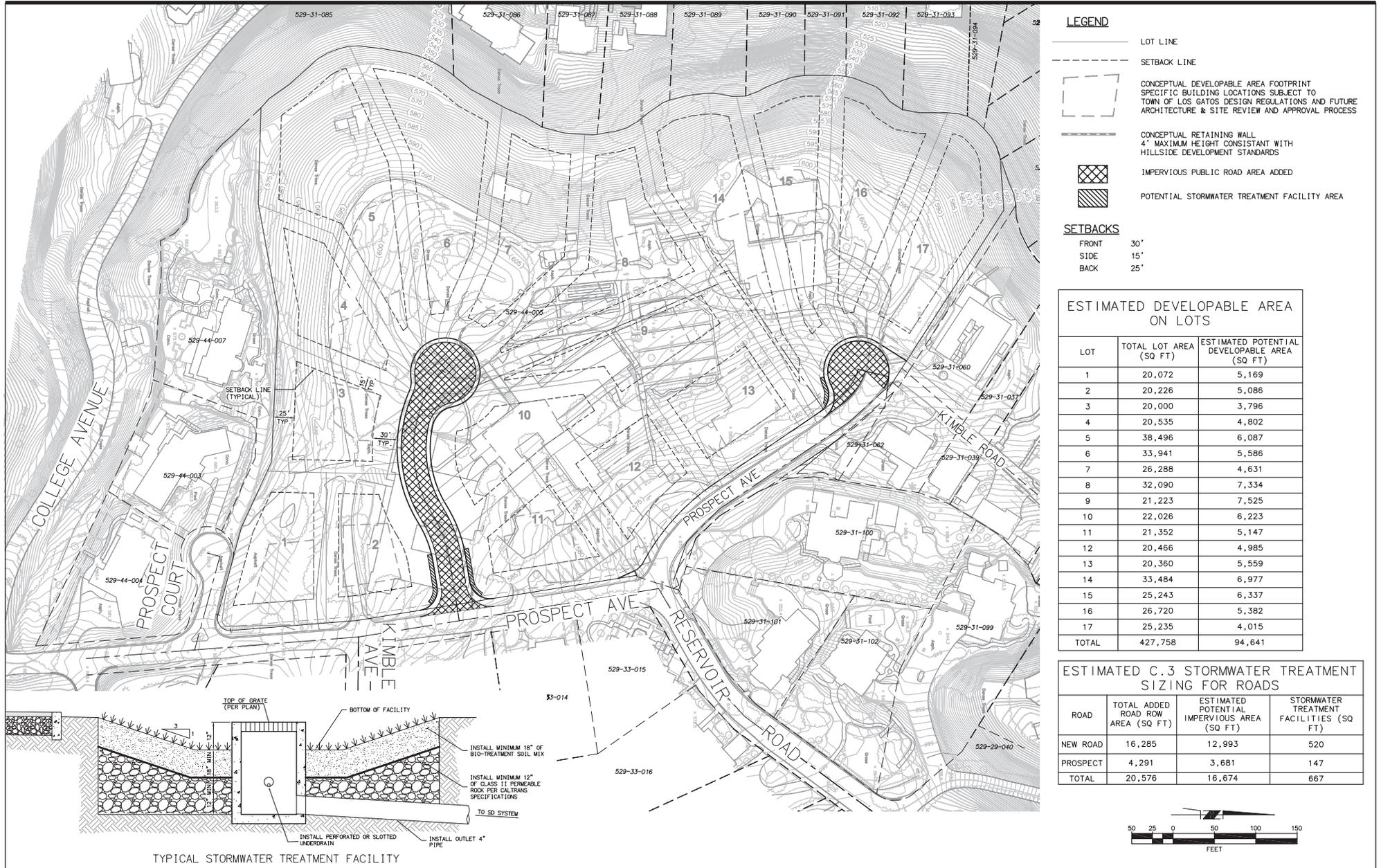


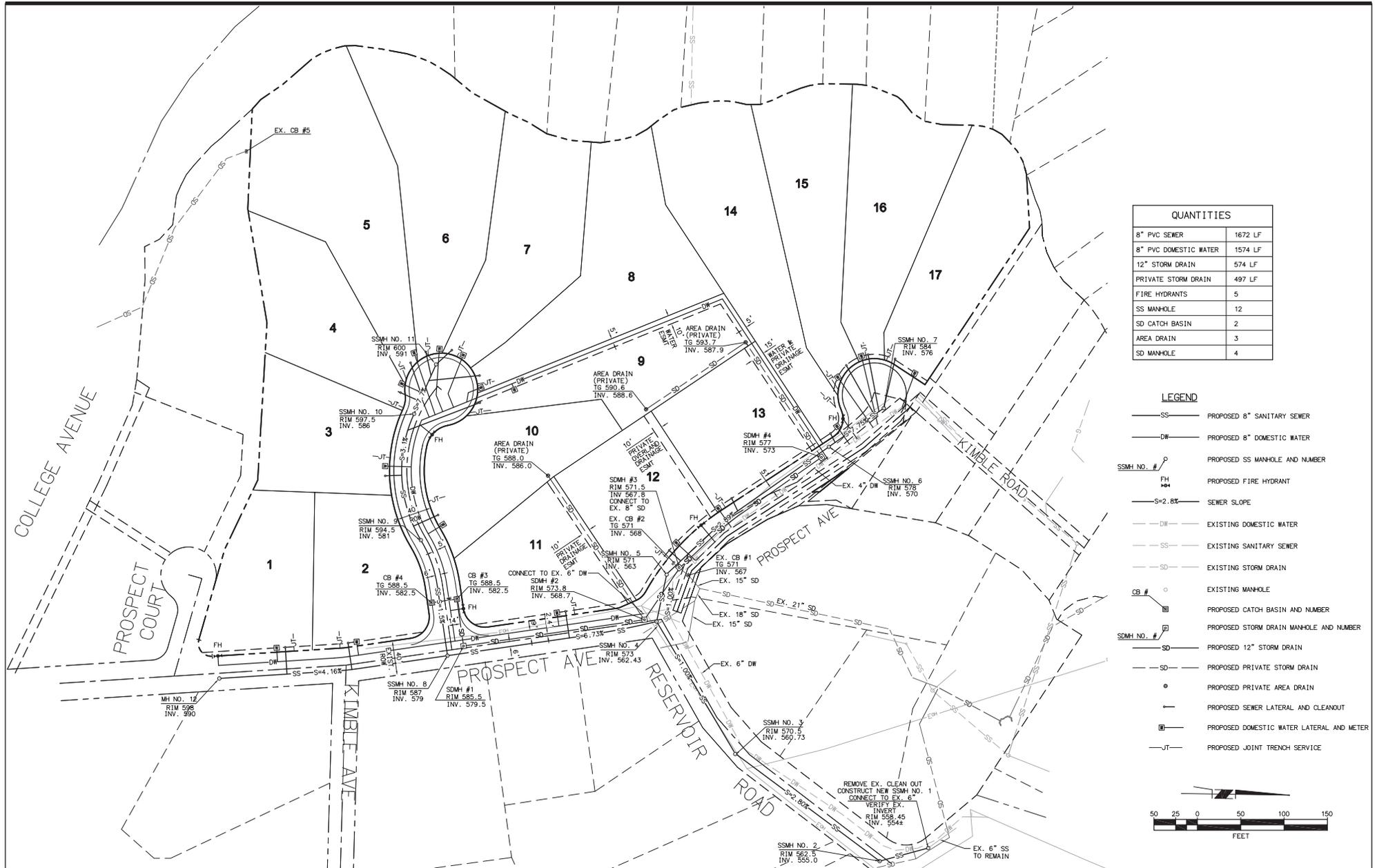
**NOTE:**  
 CONCEPTUAL PADS ONLY. SPECIFIC BUILDING LOCATIONS TO BE DETERMINED SUBJECT TO TOWN OF LOS GATOS DESIGN REGULATIONS AND FUTURE ARCHITECTURE & SITE APPLICATION, REVIEW, AND APPROVAL PROCESS.



# C.3 STORMWATER CONCEPTUAL PLAN

# FIGURE 3-6





QUANTITIES	
8" PVC SEWER	1672 LF
8" PVC DOMESTIC WATER	1574 LF
12" STORM DRAIN	574 LF
PRIVATE STORM DRAIN	497 LF
FIRE HYDRANTS	5
SS MANHOLE	12
SD CATCH BASIN	2
AREA DRAIN	3
SD MANHOLE	4

- LEGEND**
- SS — PROPOSED 8" SANITARY SEWER
  - DW — PROPOSED 8" DOMESTIC WATER
  - SSMH NO. # ○ PROPOSED SS MANHOLE AND NUMBER
  - FH # PROPOSED FIRE HYDRANT
  - S=2.8% SEWER SLOPE
  - DW — EXISTING DOMESTIC WATER
  - SS — EXISTING SANITARY SEWER
  - SD — EXISTING STORM DRAIN
  - CB # ○ EXISTING MANHOLE
  - CB # □ PROPOSED CATCH BASIN AND NUMBER
  - SSMH NO. # □ PROPOSED STORM DRAIN MANHOLE AND NUMBER
  - SD — PROPOSED 12" STORM DRAIN
  - SD — PROPOSED PRIVATE STORM DRAIN
  - PROPOSED PRIVATE AREA DRAIN
  - PROPOSED SEWER LATERAL AND CLEANOUT
  - PROPOSED DOMESTIC WATER LATERAL AND METER
  - JT — PROPOSED JOINT TRENCH SERVICE



The proposed project would extend 12-inch storm drains along most of the site frontage along Prospect Avenue. Two catch basins would be installed near the cul-de-sac/Prospect Avenue intersection to capture surface runoff from the cul-de-sac and they would connect to the storm drain in Prospect Avenue. Proposed storm drains would connect to existing 21-inch storm drain located at the Prospect Avenue/Reservoir Road intersection.

The proposed Vesting Tentative Tract Map (Figure 3-3) and utility plan (Figure 3-7) indicate the following easements:

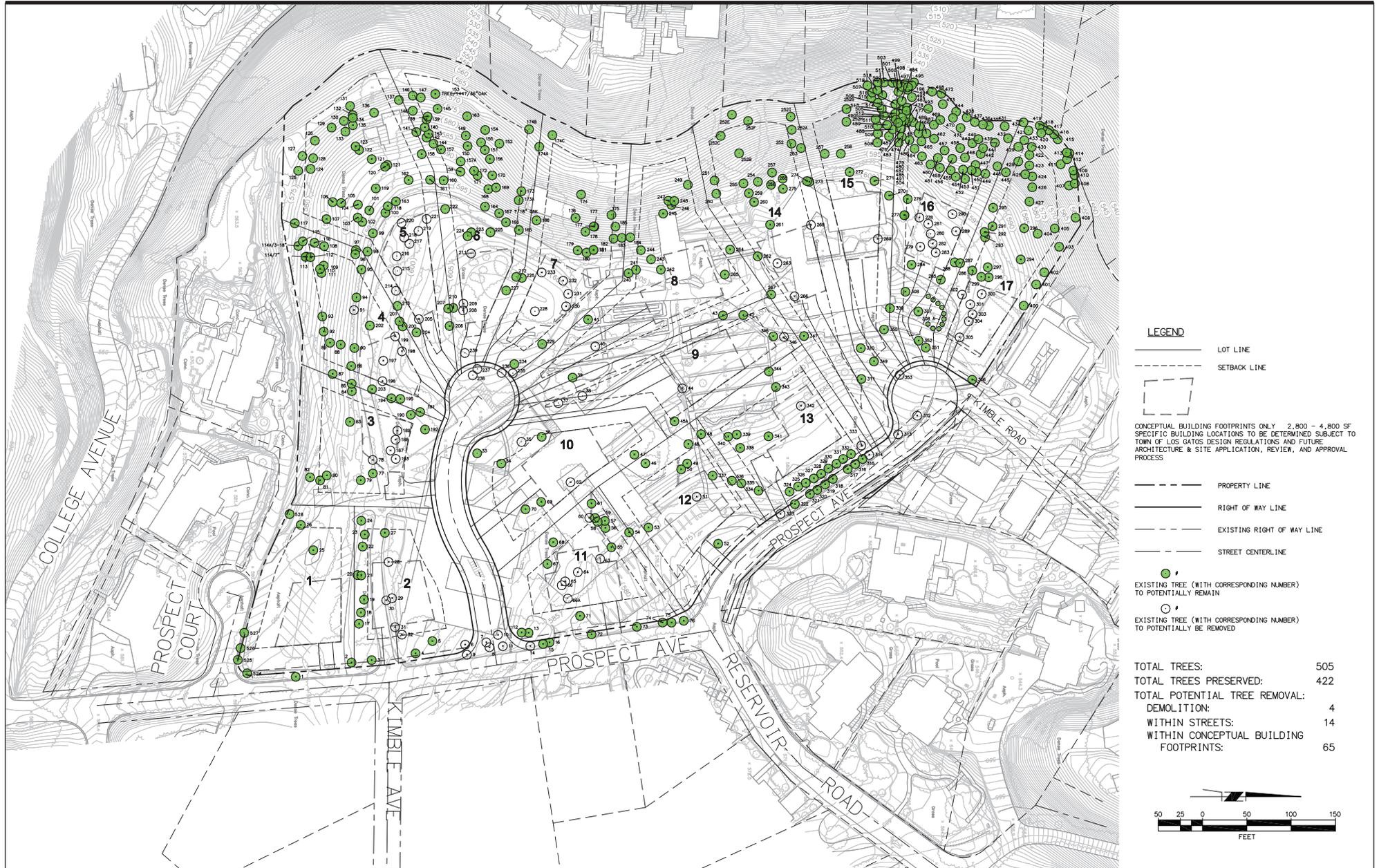
1. Lot 9: 10-foot wide water easement along western and northern lot boundaries.
2. Lot 11: 10-foot wide private drainage easement along northern lot boundary.
3. Lot 12: 10-foot wide private overland drainage easement along northern lot boundary.
4. Lot 13: 15-foot wide water and private drainage easement along northern lot boundary.

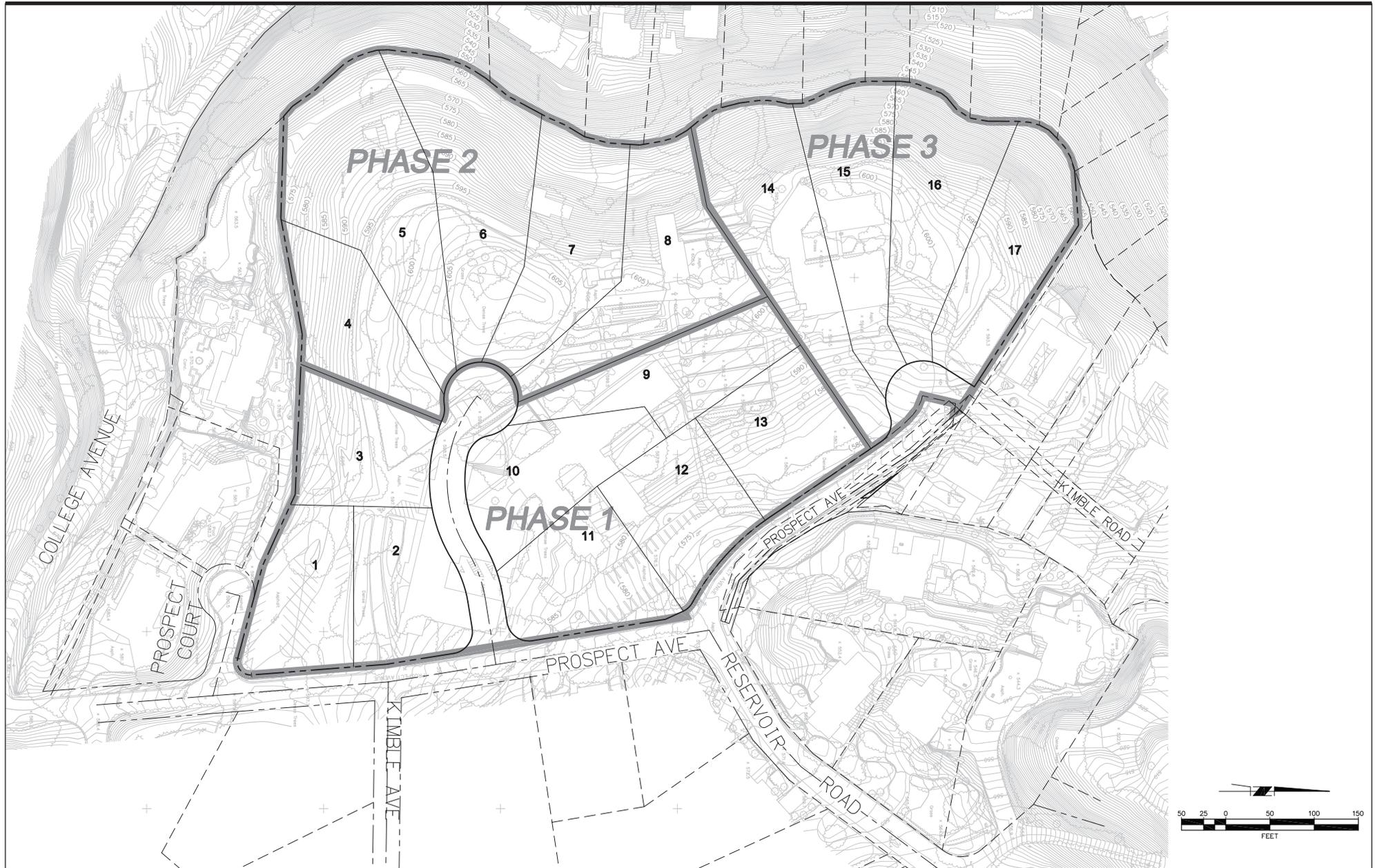
### **Conceptual Tree Preservation and Removal Plan**

A conceptual tree preservation and removal plan is presented in **Figure 3-8**. As indicated on this plan, there are total of 492 trees on the project site that are “protected” (subject to the Town’s Tree Protection Ordinance) and 302 of these trees are located in areas future development could occur. As many as 75 protected trees could be removed, another 19 could be significantly impacted, which would lead to premature decline and/or uprooting, and nine additional trees would be removed because they are hazardous. Therefore, project implementation could ultimately result in removal of up to 103 protected trees (21%) and retention of 389 protected trees (79%). The proposed tree preservation and removal plan is intended to indicate, on a conceptual level, the maximum number of trees that could be removed based on the conceptual building envelopes. The specific number of trees to be preserved, removed, or transplanted on each lot would be determined and reviewed during A&S review for each lot when it is proposed for development.

### **Construction Schedule**

Proposed demolition and removal of existing facilities would be completed in approximately two months (40 work days). It is expected that improvements such as roads and utilities would be constructed shortly thereafter and construction would be completed in approximately three months. There would be an option for the buyer to develop the site in three phases as indicated in **Figure 3-9**. All site clearing and demolition along with improvements related to access roads, utilities connections, and drainage would be completed during Phase 1 construction. Home development would occur subsequent to Phase 1 road, utility, and drainage improvements, as individual lots are developed and sold by the developer/builder or sold and developed by individual lot owners. It is also possible that a single developer/buyer would develop all of the lots and sell the new homes.





### 3.5 REQUIRED PERMITS AND APPROVALS

In conformance with Sections 15050 and 15367 of the *CEQA Guidelines*, the Town of Los Gatos has been designated as the “lead agency” for the proposed project, defined as the “public agency, which has the principal responsibility for carrying out or approving a project.”

Following certification of the EIR by the Town Council, the Town must make findings for each significant effect identified in the EIR and determine whether it will adopt each mitigation measure (and if not, why). In considering approval of the proposed project, the Town Council will be considering the proposed Vesting Tentative Tract Map. Development of each of the residential lots will require separate review and approval under the Town’s Architecture and Site review process.

Responsible agencies are those agencies that have discretionary approval over one or more actions involved with the development of the proposed project site. Trustee agencies are state agencies having discretionary approval or jurisdiction by law over natural resources affected by the project. **Table 3-2** lists the agencies from which approvals and/or permits would be required to implement the project. This EIR will be relied upon by the Town and other responsible agencies when determining whether to issue discretionary approvals to implement the project.

**TABLE 3-2**  
**LIST OF PROJECT APPROVALS AND PERMITS**

<b>Permit/Approval Required</b>	<b>Approving Agency</b>	<b>Lead/Trustee/ Responsible Agency Designation</b>
Vesting Tentative Tract Map	Town of Los Gatos	Lead Agency
Final Map	Town of Los Gatos	Lead Agency
Traffic Control Plan	Town of Los Gatos	Lead Agency
Tree Removal Permit	Town of Los Gatos	Lead Agency
Demolition Permit	Town of Los Gatos and BAAQMD	Lead Agency and Responsible Agency
Grading Permit	Town of Los Gatos	Lead Agency
Building Permit	Town of Los Gatos	Lead Agency
Architecture and Site Review/Approval	Town of Los Gatos and Santa Clara County Fire Dept.	Lead Agency and Responsible Agency
Service Agreement	San Jose Water Company	Responsible Agency
Service Agreement	West Valley Sanitation District	Responsible Agency
General Permit and Stormwater Pollution Prevention Plan	Regional Water Quality Control Board (San Francisco Region)	Responsible Agency

**REFERENCES – PROJECT DESCRIPTION**

Buccaneer Demolition, 2013. *Demolition Debris Calculation and Equipment Survey, Prepared for Sisters of the Holy Names of Jesus and Mary*. July 22, 2013.

RBF Consulting, 2013. *Vesting Tentative Tract Map, Sisters of the Holy Names*. Sheets 1 through 9. June 6, 2013.

Sisters of the Holy Names of Jesus and Mary, 2013. *Letter from Sister Mary Pat LeRoy, SNJM, Chair, Los Gatos Long Range Planning Committee, to Mr. Todd Capurso, Acting Director, Community Development Department, Town of Los Gatos, regarding 100 Prospect Avenue, Subdivision Application M-13-002, Revised Project Description and Letter of Justification, Vesting Tentative Map Application*. August 14, 2013.

# CHAPTER 4 SETTING, POTENTIAL IMPACTS, AND MITIGATION MEASURES

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## 4.1 LAND USE, PLANS, AND POLICIES

This section evaluates the project's consistency with applicable land use plans, goals, and policies and also addresses land use compatibility issues.

### 4.1.1 ENVIRONMENTAL SETTING

#### EXISTING LAND USES

The 10.3-acre project site is currently developed with a convent that is owned and operated by the Sisters of the Holy Names of Jesus and Mary. Convent facilities include approximately 85,000 square feet (s.f.) of building space in six principal buildings, eight parking lots, driveways, paved paths, unpaved service roads, and various landscaped areas. The existing convent operates under a Conditional Use Permit that allows for a wide range of uses including housing, care facilities, educational uses, retreats, recreational activities, Masses, celebrations, common dining facilities and other religious and community activities. The campus can accommodate 140 Sisters including the on-site Care Center and residential living units as well as administrative offices and common dining, recreation, education, Chapel, spiritual gathering, and retreat facilities. Today, the campus is underutilized, with 66 Sisters living on campus. The Los Gatos Convent has been and continues to be the primary housing, retirement residence, and care facility for aging Sisters throughout California.

The project site is surrounded by single-family residential development. Residential lot sizes contiguous to the western project boundary (east side of College Avenue) range from 0.2 to 0.4 acre, while lots on the east side of Prospect Avenue range between 0.3 and 0.8 acre. Three parcels contiguous to the southern project boundary range from 0.4 to 0.9 acre.

### 4.1.2 CONFORMANCE WITH LOCAL PLANS AND POLICIES

The following discussion identifies the extent to which the proposed project fulfills or conflicts with adopted land use objectives and policies that are applicable to the project site. There are no federal or state land use policies or regulations that are applicable to the proposed project with respect to land use regulation.

#### SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN

The cities of Gilroy, Morgan Hill and San Jose, the County of Santa Clara, the Santa Clara Valley Transportation Authority and the Santa Clara Valley Water District (collectively, "Local Partners") have initiated a collaborative process to prepare and implement a Habitat Conservation Plan/Natural

Communities Conservation Plan (HCP/NCCP) for the Santa Clara Valley (ICF International 2010); the HCP/NCCP as prepared for Santa Clara Valley has been titled, "Santa Clara Valley Habitat Plan." All Local Partners have approved the Plan.

The Santa Clara Valley Habitat Plan (Plan) is intended to provide an effective framework to protect, enhance, and restore natural resources in specific areas of Santa Clara County, while improving and streamlining the environmental permitting process for impacts on threatened and endangered species. The Local Partners intend the Plan to allow for reasonable development, growth, and needed infrastructure construction and maintenance while accommodating the Plan's conservation goals and complying with state and federal regulatory requirements (ICF, 2012).

Chapter 2 of the Plan describes the jurisdictions and land uses that would be subject to the provisions of the Plan as well as the activities that are covered by the Plan. Briefly, over 80 land-use designations from the four jurisdictions were aggregated into six categories, including Urban Development. Figure 2-5 of the Plan indicates that Urban Development equal to or greater than two acres is covered by the Plan and its provisions. Chapter 2 of the Plan also discusses the conditions under which specific private development projects would be subject to Plan requirements and fees.

The Town of Los Gatos is not one of the partnering jurisdictions participating in the Plan and the project site is not currently located within the project area for the Plan. The Santa Clara Valley Water District (SCVWD) is a participating member (Partner) and has formally adopted the Plan. The project site is located more than 600 feet from Los Gatos Creek and is not located adjacent to or within an area under SCVWD jurisdiction and within the Plan boundaries.<sup>1</sup> Therefore, the proposed project would not hinder the ability of the Plan partnering jurisdictions to establish a preserve system.

#### **LOS GATOS 2020 GENERAL PLAN**

The project site is subject to several planning documents and programs that have varying degrees of regulation over use of the site. The Town has preeminent authority over deciding the land use of the site. The adopted planning documents regulating land use within and around the project site are the Town of Los Gatos General Plan and the Los Gatos Town Code.

The Town Council and Planning Commission use the Los Gatos 2020 General Plan to evaluate land use changes, make funding and budget recommendations and decisions, and to evaluate specific development proposals. Town staff use the General Plan to regulate building and development and to make recommendations on proposed development projects to the Town Council and Planning Commission. The General Plan contains goals and policies that address land use, open space, conservation, noise, safety, traffic, scenic resources, cultural and historic resources, and community design. Project consistency with such policies, to the extent they were adopted for the purpose of avoiding or mitigating environmental

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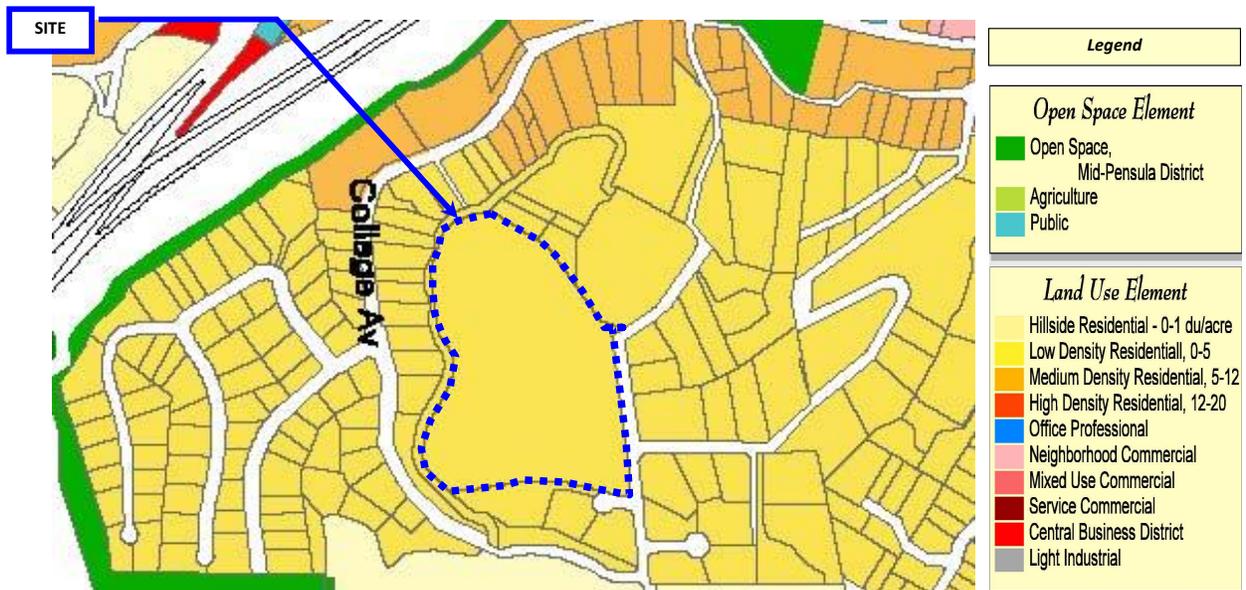
<sup>1</sup> HCP boundaries are indicated in Figure 2-2 of the HCP/NCCP. Available online at: [http://scv-habitatplan.org/www/Portals/\\_default/images/default/Final%20Habitat%20Plan/Ch\\_02\\_LandUseCoveredActivities.pdf](http://scv-habitatplan.org/www/Portals/_default/images/default/Final%20Habitat%20Plan/Ch_02_LandUseCoveredActivities.pdf)

impacts, is discussed under applicable environmental topics contained in subsequent sections of Chapter 4 of this EIR.

**Land Use Element.** The Land Use Element is the framework of the General Plan. The patterns of development activity and land uses that are set forth in the Land Use Element are intended to support and enhance the character of the Town. The land use designations of the Land Use Element serve as a guide to land use potential and must be considered in conjunction with the goals and policies of the General Plan, adopted specific plans, zoning ordinances, development guidelines, regulations and review procedures.

The 2020 General Plan Land Use Element designates the project site as Low Density Residential, 0-5 units per acre (**Figure 4.1-1**). The 2020 General Plan similarly designates all parcels surrounding the project site as Low Density Residential, 0-5 units per acre. The Low Density Residential land use designation provides for single-family residential development in either the standard development established by traditional zoning or by innovative forms obtained through planned development. The proposed project conforms with existing zoning requirements, and a Planned Development (PD) is not proposed.

The Land Use, Community Design, and Environment and Sustainability Elements include goals and policies for low-density residential development in town. In general, the proposed project would be consistent with these goals and policies, as discussed in the following project consistency analysis table.



**Figure 4.1-1 General Plan Designation**

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**General Plan Policies**
*Land Use Element*

*Goal LU-1: To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.*

*LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.*

*LU-6.5: The type, density and intensity of new land use shall be consistent with that of the immediate neighborhood.*

*LU-6.7 Continue to encourage a variety of housing types and sizes that is balanced throughout the Town and within neighborhoods, and that is also compatible with the character of the surrounding neighborhood.*

*LU-6.8 New construction, remodels and additions shall be compatible and blend with the existing neighborhood.*

*LU-7.3 Infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.*

*LU-7.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.*

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*LU-1.3: Preserve existing trees, natural vegetation, natural topography, and riparian and wildlife habitats, and promote tasteful, high quality, well designed, environmentally conscious and diverse landscaping in new developments.*

*Goal CD-4 To preserve existing trees, natural vegetation, natural topography, riparian corridors and wildlife habitats, and promote high quality, well designed, environmentally sensitive, and diverse landscaping in new and existing developments.*

*CD-4.3 Trees that are protected under the Town's Tree Preservation Ordinance, as well as existing native, heritage, and specimen trees should be preserved and protected as a part of any development proposal.*

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**Project Consistency Analysis**

The project would remove an existing institutional use and replace it with single-family residences at a density that is less than or equal to adjacent residential densities. The project's proposed density of 1.65 units per acre would be consistent within the General Plan's allowable density of 0 to 5 units per acre. Proposed lot sizes range from 0.46 to 0.88 acres (20,000 s.f. or greater), which would be consistent with or greater than most contiguous residential lots. Project implementation would increase land use compatibility with surrounding residential uses since it would eliminate the current Conditional Use Permit and institutional use on the subject property. Therefore, the project would protect the quality of life for surrounding residences and blend with the established character of the area.

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The project would retain at least 79% of the protected trees on the site based on the proposed conceptual building areas shown in Figure 3-4. Proposed roads and lots are mostly located in areas that are currently developed with buildings, infrastructure, paving, or landscaped gardens. Existing oak woodland habitat on western margin of the site would not be significantly affected by the proposed project (see Impact 4.3-6 in Section 4.3, Biological Resources, for more discussion). With respect to Goal CD-4, the site planning and design, tree preservation plan, and preliminary grading and drainage plan were developed to maximize preservation of vegetation, natural topography, wildlife habitats, and create areas for new landscaping and do not impact riparian corridors. Regarding Policy CD-4.3, proposed demolition, street and utility locations, and potential building pads would limit tree removal and disturbance so that about 79% of the protected trees on-site would be preserved as part of the project.

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**General Plan Policies**

*LU-4.2: Allow development only with adequate physical infrastructure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.).*

*LU-4.4 Project applicants shall evaluate and provide appropriate mitigation measures to reduce impacts on urban services including schools, utilities, police, and fire.*

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*LU-4.3: Only approve projects for which public costs can be justified by the overall benefit to the community.*

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**Community Design Element**

*Goal CD-3 To require utilities, landscaping and streetscapes to contribute to Los Gatos's high-quality character.*

*CD-3.1 Encourage the undergrounding of utilities on substantial remodels.*

*CD-3.3 Consider new street lighting only when required for safety.*

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*CD-5.1 Street standards shall recognize the existing character of the neighborhood, safety, and maintenance.*

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**Project Consistency Analysis**

Existing services and utilities are currently provided to the existing facilities on the site, and would continue to be provided to project residences pursuant to Town requirements and agency regulations. The development of each lot will be required to adhere to the Town's Architecture and Site (A&S) review process, which will reduce impacts to urban services because of recommendations, oversight, and approval authority of the Town and relevant public service agencies. For a discussion of project consistency with these policies, see policy consistency analysis in Section 4.12, Public Services and Utilities. The project would be required to pay school fees according to SB 50 and these fees will reduce impacts on schools.

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The economic effects of a project are not a CEQA issue unless it results in a physical change (*CEQA Guidelines* Section 15131). The physical environmental impacts associated with project implementation are identified in Chapter 4 of this EIR based on criteria derived from Appendix G of the *CEQA Guidelines*. Mitigation measures are also identified in Chapter 4 of this EIR, and they would reduce identified impacts to a less-than-significant level. The proposed conversion of the existing institutional use to residential use would benefit the surrounding neighborhood by increasing land use compatibility and reducing traffic and associated traffic noise on neighborhood streets.

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Prior to development of each project lot, proposed streetscape and landscape plans for each residence will be subject to A&S review. A&S review will also evaluate the potential for glare, shading, and nighttime illumination impacts. As indicated on the proposed Utility Plan (Figure 3-7), all required utilities would be underground.

The exterior lighting of the existing convent currently generates glare/nighttime illumination. These lights would be removed as part of the project. Street lights would be installed as required by the Town for public safety when road and utility improvements are completed.

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Prospect Avenue currently has a 40-foot wide right-of-way, but a short section north of its intersection with Reservoir Road has a 35-foot right-of-way. The proposed cul-de-sac would have a 40-foot wide right-of-way, consistent with Prospect Avenue. Pavement width of the cul-de-sac would be 30 feet, while existing pavement width along the site's frontage on Prospect Avenue is approximately 20 to 22 feet. The proposed right-of-way width, pavement width, and turnaround bulbs at the end of the cul-de-sac and northern end of Prospect Avenue would be developed as part of project implementation and is designed to meet Town and Fire Department design and safety standards.

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**General Plan Policies**

*Goal CD-6 To promote and protect the physical and other distinctive qualities of residential neighborhoods.*

*CD-6.1 Reduce the visual impact of new construction and/or remodels on the Town and its neighborhoods.*

*CD-6.2 Balance the size and number of units to achieve appropriate intensity.*

*CD-6.4 New homes shall be sited to maximize privacy, livability, protection of natural plant and wildlife habitats and migration corridors, and adequate solar access and wind conditions. Siting should take advantage of scenic views but should not create significant ecological or visual impacts affecting open spaces, public places, or other properties.*

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**Project Consistency Analysis**

As indicated above, the project would increase visual compatibility of the site with existing adjacent residential neighborhood, a beneficial impact.

The size and number of residential lots on this section of Prospect Avenue would be consistent or less than the number of lots currently with frontage on this street. As indicated in Figures 3-3 and 3-4, three lots (#1, 2, and 11) would have residences fronting onto the section of Prospect Avenue between Prospect Court and Reservoir Road. There are four lots across the street with frontage on this section of Prospect Avenue. North of Reservoir Road, three project residences would front onto Prospect Avenue, while three additional project residences would be set back from this street, although their access driveways would extend to this street. Across Prospect Avenue, there are three existing residences with frontage on this street.

Although building footprints are conceptual (final locations would be subject to Town design standards and A&S review), they are located to avoid slopes over 30% and oak woodland habitat along the western margin of the site and also maximize use of already developed/disturbed areas (see Figure 3-4).

The proposed lot layout would also maximize privacy and livability, and not affect listed or endangered species' migration corridors (none were identified in the biological assessment). See discussion below under the Hillside Standards and Guidelines consistency analysis table (first row) relating to solar access and wind conditions. Issues relating to taking "advantage of scenic views" would be considered during the A&S review process for each individual home.

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*Goal CD-7 To preserve the quality of the private open space throughout Los Gatos.*

*CD-7.1 Maximize quality usable open space in all new developments.*

As indicated on Figure 3-4, the conceptual building footprints would comprise a small portion of the proposed approximately 20,000 s.f. lots, which would maximize the private, usable open space.

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*Goal CD-14 To preserve the natural beauty and ecological integrity of the Santa Cruz Mountains and surrounding hillsides by regulating new homes.*

*CD-14.1 Minimize development and preserve and enhance the rural atmosphere and natural plant and wildlife habitats in the hillsides.*

*CD-14.2 Limit hillside development to that which can be safely accommodated by the Town's rural, two-lane roads.*

*CD-14.3 Effective visible mass shall be reduced through such means as stepping structures up and down the hillside, following topographical contours, and limiting the height and mass of wall planes. A maximum of two stories shall be visible from every elevation.*

The project would reduce traffic volumes on local residential streets and conceptual building envelopes would be located on previously developed areas and avoid steep, undeveloped slopes on the site (see Figure 3-4). There are currently no specific home designs to determine the project's consistency with the listed design-related policies. Specific homes designs would be prepared for each project lot and would be subject to the A&S review process. During this process, each home design will be subject to review for consistency with zoning requirements and Hillside Design Guidelines and Standards. The project eliminates an institutional use in the hillside and would ultimately include single-family homes. Such a land use change would be consistent with the rural atmosphere, and would preserve the natural plant and wildlife habitats in the hillside that contribute to the viewsheds.

The project would not significantly impact viewsheds. The

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**General Plan Policies**

*CD-14.5 Staff shall require adequate environmental analysis for projects in the hillside area to ensure appropriate consideration of potential environmental impacts associated with projects.*

*CD-14.6 Preserve and protect the natural state of the Santa Cruz Mountains and surrounding hillsides by discouraging inappropriate development on and near the hillsides that significantly impacts viewsheds.*

*Goal CD-15 To preserve the natural topography and ecosystems within the hillside area by regulating grading, landscaping, and lighting.*

*CD-15.1 Protect the natural ridge lines as defined in the Hillside Specific Plan and Hillside Development Standards and Guidelines.*

*CD-15.2 Prohibit any grading that would alter the natural ridge line.*

*CD-15.3 New construction shall be designed to follow natural land contours and avoid mass grading. When possible, flat pads should be avoided and houses should be designed to conform to or step down the contours rather than be designed for flat pads. Grading large, flat yard areas should be avoided.*

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**Environment and Sustainability Element**

*Goal ENV-12: To conserve the air resources of the Town and maintain and improve acceptable air quality in Los Gatos.*

*ENV-12.1: Local land use decisions shall consider air quality goals as part of the environmental review process.*

*ENV-12.2: Require consideration of alternatives to individual auto use whenever the environmental review document concludes that the traffic generated by a development project would result in adverse impacts from air and noise pollution.*

*ENV-12.4: Support Bay Area Air Quality Management District (BAAQMD), Metropolitan Transportation Commission (MTC), State, and federal planning efforts and programs aimed at reducing air pollution within the airshed.*

*ENV-12.5: Site plans shall be reviewed to include an assessment of the potential adverse impact from air pollution and recommend alternatives to reduce such impacts.*

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*ENV-12.3: Require design criteria for site plans to reduce the effects of high air pollution*

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**Project Consistency Analysis**

project site is located on a north-trending ridgeline, but this ridge and location of the site on the ridge obscures views of the existing buildings on the site from most areas of the town to the north.

The project site is located on a north-trending ridgeline, but this ridge and location of the site on the ridge obscures views of the existing buildings on the site from most area of the town (i.e. vicinity of the viewing platform on Los Gatos Saratoga Road/Highway 9). Conceptual building footprints on Lots 15 and 16 appear to be on this ridge, but mature oaks located north of these building locations could screen views of these homes, depending on their height and design. Home designs on all proposed lots would be subject to A&S review where visibility from town would be evaluated.

The project's consistency with pertinent Hillside Specific Plan policies and the HDSG are included in separate project consistency analysis tables below.

The project's construction-related and operational air quality impacts are evaluated in Section 4.8, Air Quality. The project's construction-related emissions were determined to be less than significant with implementation of dust and emission controls outlined in Mitigation Measure 4.8-2 (see Impact 4.8-2). Construction-related health risks associated with the project's construction-related diesel particulate emissions were determined to be less than significant with incorporation of Mitigation Measures 4.8-4a and 4.8-4b (see Impact 4.8-4).

With respect to Policy ENV-12.2 and ENV-12.5, the project would reduce traffic volumes on local residential streets and reduce traffic-related noise and air emissions. In addition, indirect air emissions related to electricity demand would also decrease because future residences would be more energy efficient than existing buildings. Therefore, these policies would not apply to the project and such alternatives would not be required.

Regarding Policy ENV-12.4, the BAAQMD's 2010 CEQA Guidelines were used as a basis for determining appropriate CEQA significance thresholds applied in the impact analysis in Section 4.8, Air Quality.

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In Section 4.8, Air Quality, Table 4.8-5 presents the cumulative health risks associated with toxic air contaminants

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**General Plan Policies**

*concentrations associated with roadways by appropriate placement of structures, use of landscaping, and parking arrangements.*

**Project Consistency Analysis**

from all stationary sources and roadway/freeway sources in the project vicinity. As indicated in Impact 4.8-4, cumulative health risks from these sources were determined to be less than significant.

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**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES (HDSG)**

With respect to projects involving land subdivisions, the HDSG contains the development standards and guidelines related to lot configuration and building locations. In general, the proposed project would be consistent with these goals and policies, as discussed in the following project consistency analysis table.

**Hillside Development Standards and Guidelines**
**Project Consistency Analysis**
*II. Constraints Analysis and Site Selection*
*A. Prior to Selecting a Building Site*

*1. Constraints Analysis. To ensure that new development is sensitive to the goal and objectives of the HDSG and respects the existing site constraints, the following elements shall be mapped by appropriate professionals and taken into consideration when determining a site's LRDA:*

- *Topography, with an emphasis on slopes over 30%*
- *Vegetation such as individual trees, groupings of trees and shrubs, habitat types*
- *Drainage courses and riparian corridors*
- *Septic systems*
- *Geologic constraints including landslides and active fault traces*
- *Wildlife habitats and movement corridors*
- *Visibility from off site*
- *Areas of severe fire danger*
- *Solar orientation and prevailing wind patterns*
- *Significant Ridgelines*

*When all constrained areas have been identified and mapped, the remaining area(s) will be designated as the "LEAST RESTRICTIVE DEVELOPMENT AREA" (LRDA). These are the areas most appropriate for development.*

*2. Consultation with Neighbors. Before siting and designing the house and landscaping, the property owner, architect or builder should meet with neighbors to discuss any special concerns they might have.*

As indicated in **Figure 4.1-2**, the Least Restrictive Development Area (LRDA) limit ensures that project development would avoid slopes greater than 30%, native oak woodland habitat, drainage courses, and visibility from areas to the north. There are no drainage courses, riparian corridors, geologic constraints (landslides or active fault traces) located on the project site. There are no septic systems on the site nor are any proposed as part of the project.

The project site is located on a north-trending ridgeline, but this ridge obscures views of the existing buildings on the site from most areas of the town (i.e. vicinity of the viewing platform on Los Gatos Saratoga Road/Highway 9, View B, Figure 4.2-2). Conceptual building footprints on Lots 15 and 16 appear to be on this ridge, but mature oaks located north of these building locations could screen views of these homes, depending on the homes' heights and design. Home designs on all proposed lots would be subject to A&S review where visibility from town would be evaluated.

The existing Convent is located in a high fire hazard area, and project residences would also be located in this high fire hazard area, similar to surrounding homes. Project homes will be reviewed for conformance with the HDSG to minimize fire hazards. Homes would also be required to comply with Wildland Urban Interface (WUI) requirements.

Since project homes would be lower in height than existing on-site buildings, solar and wind exposure for adjacent homes could increase with project implementation. The one exception would be the home to the east of Lot 17; the existing tennis court would be replaced by a home which could reduce afternoon solar exposure (from the west), depending on the ultimate height of the home on Lot 17. Shadow and glare impacts would be evaluated as part of A&S review when a specific home design on this lot is proposed. In general, the project site is comprised of a north trending ridge with good solar exposure and exposure to prevailing winds from the west-southwest. Proposed homes sites are located in developed areas, which are relatively level and maximizes solar exposure.

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## Hillside Development Standards and Guidelines

## Project Consistency Analysis

The Sisters have indicated they have communicated with neighbors and plan to continue their on-going neighborhood outreach efforts. The Sisters sent letters to all near neighbors and nearly 7,000 friends and donors. Prior to submittal to the Town of the Vesting Tentative Tract Map application, the Sisters hosted neighborhood meetings in February 2013 for neighbors on Prospect, Kimble, Reservoir, College, Cleland, Rogers, Euclid, Oak Grove, and Jones (Sisters of the Holy Names of Jesus and Mary, 2013). In June 2013, the Sisters also sent update letters to these neighbors.

### *VIII. Subdivision and Planned Development Projects*

#### *C. Least Restrictive Development Area (LRDA)*

#### *E. Development Standards and Guidelines*

#### *3. Lot Configuration and Building Locations – Standards:*

*a. The layout of lots shall be derived from the form of the land. The development plan shall adapt to existing topography and natural features, avoiding unnecessary alteration of landforms.*

*b. Lot patterns shall offer a variety of lot shapes and sizes influenced by topography and natural features.*

*c. Projects shall incorporate varied setbacks, multiple orientations, side-entry garages, and other site planning techniques to preserve open spaces, protect natural features, and reduce the monotony of repetitive designs.*

*d. Building footprints shall be indicated on grading plans and shall be staked on site in order to assist in the review of proposed building locations.*

*e. Graded areas shall be designed with manufactured slopes located on the uphill side of buildings, thereby hiding the slope behind the building.*

#### *Lot Configuration and Building Locations - Guideline:*

*a. Location of development is encouraged in order to preserve environmentally sensitive areas, existing natural features and open space, and to reduce the potential for fire hazard, erosion, and excess runoff.*

Since the project site is already developed and level building pads were already created to accommodate existing development, standards relating to alteration of landforms would not pertain to the proposed project.

Lot patterns would vary in size and shape, building footprint locations would be located within the LRDA, accounting for topography, by avoiding the undeveloped western and northern margins of the site where slopes are 30% or more. As indicated in Figure 4.1-2, the shapes and sizes of lots and building footprints along Prospect Avenue would vary, while setbacks from the proposed cul-de-sacs would also vary. Required building setbacks are indicated in Figure 4.1-2, and, as indicated in this figure, building footprints would not encroach on setback areas.

## HILLSIDE SPECIFIC PLAN (HSP)

Adopted in 1979, the HSP was intended to allow development in hillside areas in a manner that does not adversely affect the mountain environment. Another goal of the Plan was to address the need for different development policies, regulations, and standards in hillside areas of town. The HSP specifies appropriate residential densities for nine different sub-areas. The project site is not located within any of these sub-areas. In general, the HDSG are consistent with HSP goals and policies, but it provides more detailed development guidelines and standards than the HSP. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with conflicts with policies designed to protect the environment. Project consistency with pertinent HSP policies is discussed in the following project consistency analysis table.

Hillside Specific Plan	Project Consistency Analysis
<p><i>1.0 Land Use</i></p> <p><i>1.3.3: Clustering of Dwelling Units. Clustering of dwelling units should be encouraged to preserve the scenic nature of the hillsides and to allow for economies in the construction of required public and private facilities.</i></p> <p><i>1.3.4. Architectural and Site Review.</i></p> <p><i>a. Architectural and Site Review procedure or Design Review shall be required for all development proposals in the hillsides, including buildings, grading, roads, parking areas, landscaping and outdoor lighting. The purpose is to provide for the design of building sites which will be appropriate with mountain environment.</i></p> <p><i>b. In subdivision design, home sites shall be so located as not to interfere with the natural ridge silhouette as viewed from the valley floor.</i></p> <p><i>c. New construction shall not be allowed which would protrude above the natural ridgeline or otherwise alter its natural contour as determined by the deciding body.</i></p> <p><i>d. Construction of multi-story structures at the ridgeline shall be prohibited, unless necessitated by other requirements in this plan or subsequently adopted hillside standards.</i></p> <p><i>e. The lighting of court game areas shall be subject to Architecture and Site Review or Design Review.</i></p>	<p>Although proposed lot lines traverse the entire project site, the proposed site plan clusters most conceptual building footprints into areas already developed with existing facilities. Such a design would retain scenic features attributable to natural hillside areas located in the western and northern margins of the site.</p> <p>Prior to development of each project lot, each home design would be reviewed for consistency with these HSP policies, which are related to aesthetics, grading, landscaping, outdoor lighting. For more discussion of these issues, see above project consistency analysis table under the HDSG.</p>
<p><i>2.0 Facilities Services</i></p> <p><i>2.3.1: Availability of Services for Development. Development proposals shall be approved only if the necessary road, water, sanitation and other services required for the proposed use are provided to the property.</i></p> <p><i>2.3.3: Services Costs. The developer shall pay all costs for providing services.</i></p>	<p>The project site is already developed with institutional facilities and services, utilities, and access roads are already provided at the site. The developers who ultimately develop the roads, infrastructure, and lots would pay for all costs of providing services, utilities, and access roads.</p>
<p><i>3.0 Circulation</i></p> <p><i>3.3.1: Design of Hillside Roads and Driveways.</i></p> <p><i>a. Hillside roadways and driveways shall be designed and</i></p>	<p>Project plans indicate that a new cul-de-sac is proposed in the southern portion of the site, while a</p>

**Hillside Specific Plan**

*located so as to:*

1. *Require a minimum amount of earth movement.*
2. *Be consistent with the specified standards for curves, gradients, widths, and other controlling factors.*
3. *Be in harmony with the surrounding landscape by utilizing aesthetic design concepts, including landscaping with native plants and materials.*
4. *Allow for special designs where natural features such as rocks, slopes and trees require special treatment.*

*b. Adequate slope easements shall be provided.*

**3.3.2: Private Roads Versus Public Roads.**

- a. *An adequate system of publicly owned and maintained roads is the best means of providing adequate access to all properties. Access by private road shall not be allowed unless fundamental to a special approved design concept unless full provisions for construction and maintenance of the private road system have been approved and unless it is consistent with neighborhood circulation.*

**4.0 Open Space**

**4.3.1: Open Space Easements.** *Open space easements shall be required by the deciding body for hillside subdivisions in accordance with the topographical, ecological, aesthetic and other conditions pertinent to the making of such easements.*

**4.3.4: Tree Removal.** *The cutting of live trees shall be controlled under Town and County policies designed to restrict cutting.*

**4.3.5: Landscaping.** *Landscaping plans shall be submitted by land developers for approval to the deciding body.*

**5.0 Safety**

**5.3.1: Geologic Hazards Reviews.** *Development shall be avoided or carefully controlled in potentially hazardous geologic areas.*

**5.3.2: Fire Protection.**

- a. *Development should be avoided in areas subject to severe fire danger.*
- b. *Development should be avoided unless measures designed to assure the highest degree of fire prevention and fast, effective means of fire suppression are provided.*

**Project Consistency Analysis**

turnaround bulb at the northern terminus of Prospect Avenue would be added. Proposed roads would be located in areas already developed with existing facilities, thereby minimizing grading requirements. Since these areas are currently developed, there are no special natural features present in the areas proposed for development. Proposed demolition, street and utility locations, and potential building pads would limit tree removal and disturbance so that about 81% of the trees on-site would be preserved as part of the project. Proposed road widths, gradients, and other standards will be required to meet Town and Fire Department standards. New cul-de-sac improvements are proposed to be public roadways, while driveways on project lots would be private.

No open space easements are proposed as part of this project. However, by restricting development to areas within the Least Restrictive Development Area (LRDA) as required in the HDSG, the project would avoid environmentally-sensitive areas. Proposed tree removals would be subject to requirements of the Town's Tree Protection Ordinance (see Impact 4.3-6 for more discussion), and tree removal impacts were determined to be less than significant since compliance with this ordinance will be required. Prior to development of each project lot, proposed streetscape and landscape plans for each residence will be subject to A&S review.

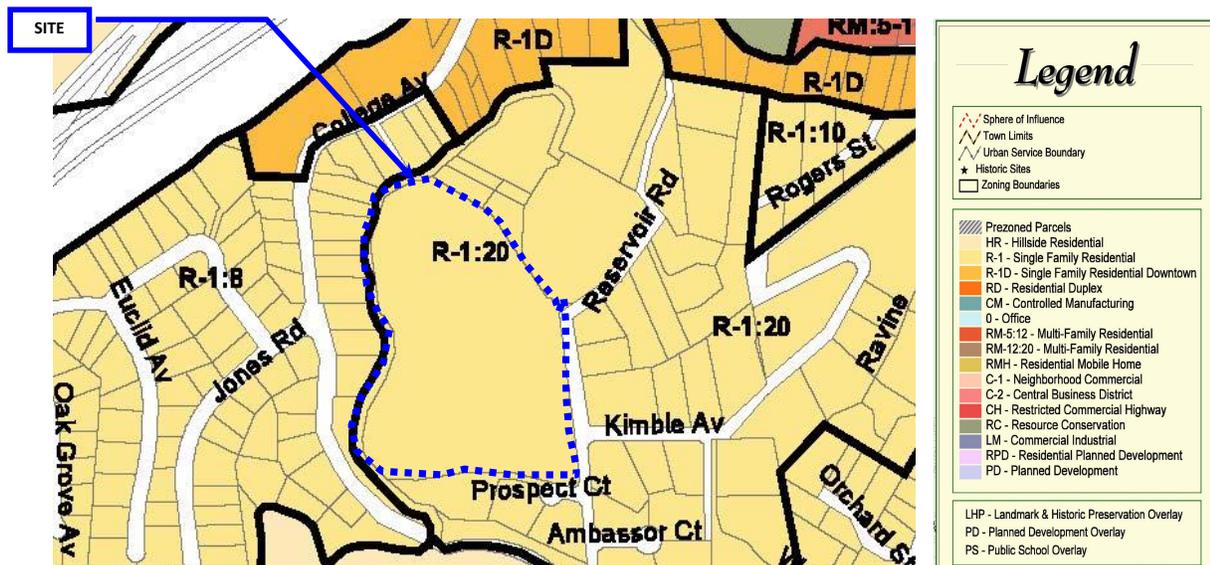
As part of future individual lot development, a design-level geotechnical investigation for each lot and home design would be required as specified in Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation. To minimize fire hazards, the project would be required to comply with the fire safety standards contained in the HDSG. See Section 4.10, Impact 4.10-4 for more discussion of fire hazard risks.

**LOS GATOS ZONING ORDINANCE**

Chapter 29, *Zoning Regulations*, of the Los Gatos Town Code (Zoning Ordinance) implements the overall land use planning provisions that are formulated in the Town’s General Plan. The zoning ordinance is used to promote and protect the public health, safety, peace, morals, comfort, convenience and general welfare of the Town and its inhabitants, and particularly:

- To provide a guide for the development of the Town to preserve its character of a low density residential community with those attributes of a balanced land use program consisting of residential, commercial, industrial and recreational areas so located and controlled to promote stability of land use both existing and proposed.
- To promote a safe, effective traffic circulation system, and to provide adequate off-street parking.
- To preserve the natural beauty of the Town and protect its residential neighborhoods from the intrusion of commercial interests.
- To prevent improper disposal of toxic waste.
- To assure the orderly and beneficial development of all areas of the Town.

The project site is zoned “R-1:20” Single Family Residential, 20,000 s.f. minimum lot size (**Figure 4.1-3**). Since all proposed single-family residential lots would be 20,000 s.f. or larger, the project would be consistent with the existing zoning designation for the project site.



**Figure 4.1-3 Zoning Designation**

### 4.1.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based on criteria derived from Appendix G of the *CEQA Guidelines*, a project will normally have a significant land use impact if the proposed project would:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect; or
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

Based on the project's location and design, no impacts are anticipated with respect to the above criterion:

- *Conflict with any applicable habitat conservation plan or natural community conservation plan.* As discussed in Section 4.1.2, no adopted habitat conservation plans or natural community conservation plans apply to the project site. Therefore, the proposed project would not result in a conflict with any applicable habitat conservation or natural community conservation plan.

#### METHODOLOGY

The impact analysis of this section considers the physical effects of the proposed project related to land use compatibility and considers potential inconsistencies of the proposed development with relevant planning documents implemented by the Town of Los Gatos and other agencies to the extent such policies are adopted for the purpose of avoiding or mitigating an environmental impact. Goals and policies from the Town of Los Gatos General Plan are also discussed in applicable topical sections of the EIR (see Regulatory and Planning Framework subsections), where policies related to physical effects are addressed.

The consistency analysis presented above in Section 4.1.2, Conformance with Plans and Policies, was prepared in compliance with State *CEQA Guidelines* Section 15125(d). The purpose of the required analysis is to identify potential inconsistencies between the proposed project and applicable planning policies to the extent such plans are adopted for the purpose of avoiding or mitigating an environmental impact. This requirement echoes an inquiry set forth in Appendix G to the *CEQA Guidelines*, the sample Initial Study checklist, as to whether a proposed project would “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.” Under these inquiries, an inconsistency with a plan, goal, or policy is not itself an adverse impact on the physical environment. Rather, the point of assessing a proposed project's consistency with a plan, goal or policy intended to protect the environment is to determine whether an inconsistency may translate, as a practical matter, into a significant effect on the

physical environment. Where any such impacts are identified, they are discussed later in applicable topical sections of this EIR.

This EIR section determines whether any project inconsistencies with public land use plans, goals, policies, and documents would result in a significant physical environmental impact and whether mitigation appears to be feasible. The final determination that a project is consistent or inconsistent with an applicable plan is made by the Lead Agency decision-making body when it acts on the project. With respect to the Town of Los Gatos General Plan and Hillside Development Standards and Guidelines, the Town Council, as the body that approved that legislative policy document, will be entitled to considerable deference on matters of interpretation and application. The analysis in Chapter 4 of this EIR presents the findings of policy review under each environmental topic and is intended by Town staff and consultants to provide a guide to the Town's decision-makers for policy interpretation.

#### COMPATIBILITY WITH EXISTING LAND USES

##### **Impact 4.1-1: The project would not physically divide an established community. (Less Than Significant)**

The project would remove an existing institutional use and replace it with single-family residences at a density that is less than or equal to adjacent residential densities. Project implementation would increase land use compatibility with surrounding residential uses since it would eliminate the current institutional use on the subject property. Proposed residential lots would be approximately one-half acre or larger in size, ranging between 0.46 (20,072 s.f.) and 0.88 acres (38,496 s.f.). Residential lot sizes contiguous to the western project boundary (east side of College Avenue) range from 0.2 to 0.4 acre, while lots on the east side of Prospect Avenue range between 0.3 and 0.8 acre. Three parcels contiguous to the southern project boundary range from 0.4 to 0.9 acre. Proposed lot sizes would fall within the range of adjacent lot sizes. Therefore, project implementation would not physically divide or contrast with established residential densities in the project vicinity.

*Mitigation Measure 4.1-1: None required.*

#### CONSISTENCY WITH LAND USE PLANS AND POLICIES

##### **Impact 4.1-2: The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. (Less Than Significant)**

The General Plan and Zoning Code designations provide guidelines for the type, scale and intensity of land use within a community. The Los Gatos 2020 General Plan Land Use Element designates the project site as Low Density Residential, 0-5 units per acre. The project site is zoned "R-1:20" Single Family Residential, 20,000 s.f. minimum lot size. The proposed density of 1.65 units per acre (17 units on 10.3 acres) would be consistent with the General Plan designation. Since all proposed single-family residential lots would be 20,000 s.f. or larger, the proposed project would be consistent with the existing zoning

designation for the project site. As indicated in Section 4.1.2 above, the project's design also would be consistent with goals and policies of the Town of Los Gatos 2020 General Plan and the Hillside Development Standards and Guidelines. As noted above, any identified potential conflicts will be determined during Architecture and Site (A&S) review, when specific home designs are proposed on project lots. For these reasons, project implementation would not conflict with any applicable plans, policies, or regulations, a less-than-significant land use impact.

As indicated above, the proposed Vesting Tentative Tract Map would be consistent with the Town's General Plan policies and HDSG design measures related to land use. Project consistency with policies related to other environmental topics relate to the project's physical impacts and these impacts are discussed in Sections 4.2 (Aesthetics), 4.6 (Traffic and Circulation), 4.7 (Noise), 4.8 (Air Quality), 4.9 (Greenhouse Gas Emissions), 4.12 (Public Services, Utilities, and Service Systems), and 4.14 (Energy Conservation). All aesthetic, traffic, greenhouse gas emissions, public services/utilities/service systems impacts were determined to be less than significant. Potentially significant impacts identified under the remaining topics would be reduced to less-than-significant levels with implementation of specified mitigation measures.

***Mitigation Measure 4.1-2: None required.***

#### **REFERENCES – LAND USE**

- ICF International, 2012. *Final Santa Clara Valley Habitat Plan, Santa Clara County, California*. December. Available online at [http://scv-habitatplan.org/www/site/alias\\_default/346/final\\_habitat\\_plan.aspx](http://scv-habitatplan.org/www/site/alias_default/346/final_habitat_plan.aspx).
- Sisters of the Holy Names of Jesus and Mary, 2013. *Letter from Sister Mary Pat LeRoy, SNJM, Chair, Los Gatos Long Range Planning Committee, to Mr. Todd Capurso, Acting Director, Community Development Department, Town of Los Gatos, regarding 100 Prospect Avenue, Subdivision Application M-13-002, Revised Project Description and Letter of Justification, Vesting Tentative Map Application*. August 14, 2013.
- Town of Los Gatos. 2011. *Town Code*. Codified through Ordinance No. 2202, Enacted September 19, 2011. Available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=25>.
- Town of Los Gatos, 2010. *Town of Los Gatos 2020 General Plan*, September 20. Available online at <http://www.losgatosca.gov/index.aspx?NID=27>.
- Town of Los Gatos, 2004. *Hillside Development Standards and Guidelines*. January. Available online at <http://www.losgatosca.gov/index.aspx?NID=1117>.

## 4.2 AESTHETICS

### 4.2.1 ENVIRONMENTAL SETTING

#### EXISTING VISUAL CHARACTER

The project site is located approximately 0.1 mile southeast of State Route 17 freeway (SR 17) and ¼ mile south of the W. Main Street bridge over SR 17. Residential neighborhoods bound the upland property on all four sides (north, south, east, and west). Existing views of the project site are principally available from these residential neighborhoods.

The subject property is developed as the Los Gatos Convent for the Sisters of the Holy Names of Jesus and Mary. The 10.3-acre project site is currently developed with approximately 85,000 square feet (s.f.) of building space, eight parking lots, driveways, paved paths, unpaved service roads, and various landscaped areas. The two largest buildings, Marian and Siena, are approximately 72,000 square feet (s.f.) and consist of 100 bedrooms for senior living, a chapel, dining facilities, retreat/conference facilities, and supporting facilities. There are separate administrative offices and other outbuildings on the campus (Stone House, Cortona, and Seraphine), totaling approximately 14,000 s.f.

The project site was extensively landscaped with trees internally between the buildings and surface parking lots when it was developed in the 1950's and 1960's. The perimeter landscape trees generally provide screening for the site from surrounding uses and public views. The westernmost portion of the subject property slopes steeply down towards College Avenue and is separated from College Avenue by existing residential development. Portions of this hillside are densely wooded with both native and non-native trees, shrubs, vines and herbs. The hillside trees along the southern, western, and northern site boundaries currently screen views of the site such that close views from adjoining properties are filtered or obscured, and distant views of the property from surrounding areas are not afforded. Landscape trees planted along the site's eastern boundary with Prospect Avenue provide screening of the project site from this street and nearby residences on Prospect Avenue, Prospect Court, Kimble Avenue, and Reservoir Road. Due to the project site's location and surrounding terrain, views of the site are generally not experienced until the viewer is almost adjacent to the site. Views of the project site from SR 17 are blocked by freeway landscaping, site and adjoining woods, and intervening terrain between the site and SR 17.

In order to characterize views of the project site from adjoining and nearby areas, photographs of the project site showing representative views of the property from various locations around it are presented as part of the aesthetics evaluation conducted for the project. Critical viewpoints in the site vicinity are considered to be locations where the site is most visible from public viewing areas (i.e., where it would be most visible to the greatest number of people). For the project site, critical viewpoints were determined to be from the SR 17 – Highway 9 Viewing Platform as identified by the Town's Hillside Development Standards and Guidelines (HDSG), views for travellers on SR 17, and views from Prospect Avenue.

**Figure 4.2-1** provides a map with the key to viewpoint locations used for the assessment of the visual impacts that would result from project development. Existing views of the project site are shown in **Figures 4.2-2 through 4.2-5**.

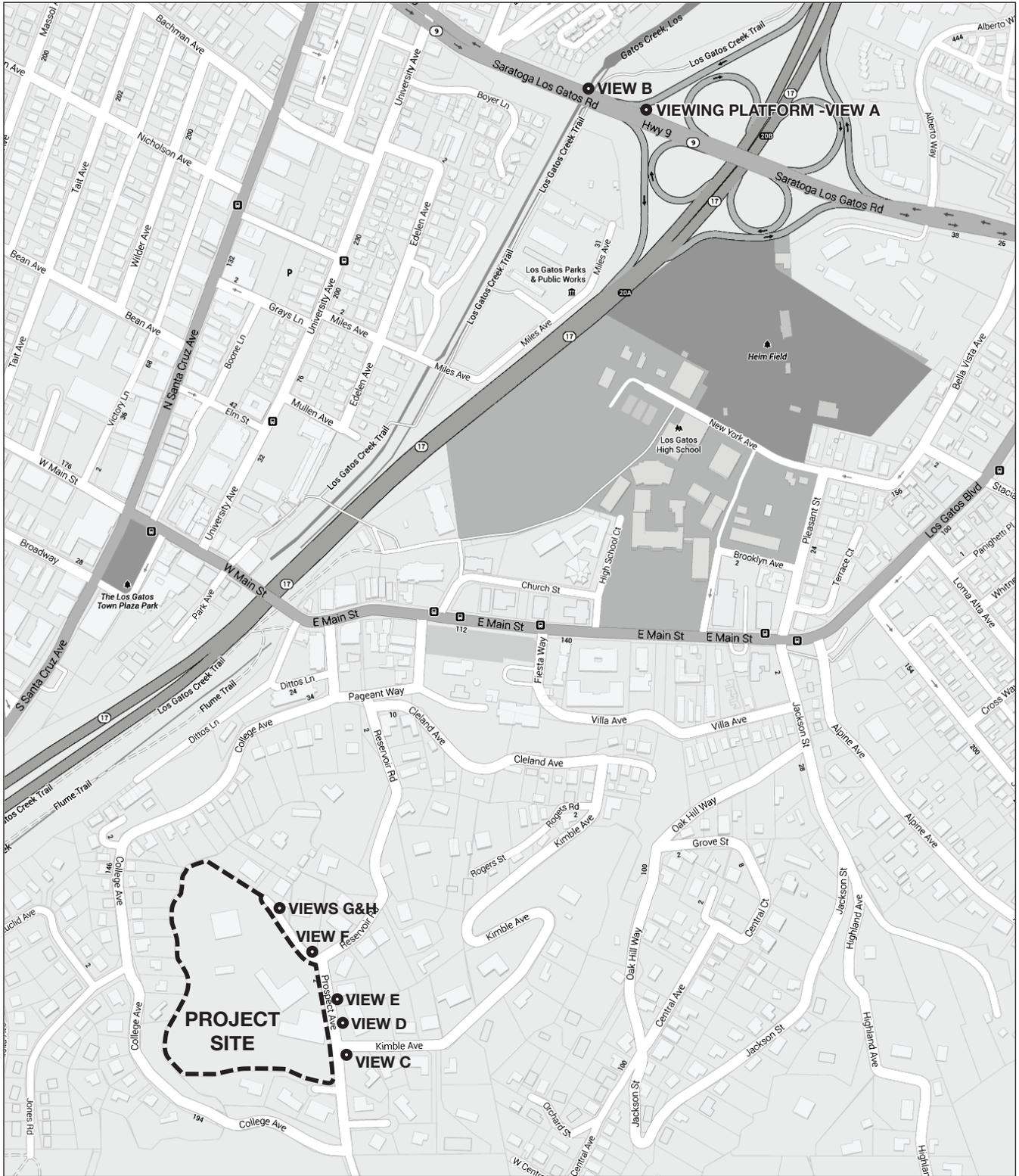
As shown in Figure 4.2-2, Views A and B are located at the SR 17 – Highway 9 interchange that is designated as a viewing platform by the Town. The Town’s HDSG require a view analysis for each development project with the potential for being visible from any established viewing platform. Figures 4.2-3 through 4.2-5 present Views C through H, and they demonstrate views of the site as seen by motorists travelling on Prospect Avenue and residences on Prospect Avenue, Kimble Avenue, and Reservoir Road.

Views A and B (Figure 4.2-2) show hillside views of the project area and its adjoining neighborhoods. As can be observed, potential views of the project site are screened and obscured by roadside landscape trees. While not required by the HDSG, View B presents a view of the site’s hillside location to determine the extent of the site’s visibility from Highway 9 in the vicinity of the Town’s designated Viewing Platform. This distant view of the project area shows that the Convent’s facilities are not visible from the Highway 9 Viewing Platform vicinity as well as from the Platform itself.

View C in Figure 4.2-3 shows the view toward the project site from the intersection of Prospect Avenue and Kimble Avenue. Landscape trees on the eastern periphery of the site screen views of the 2- to 3-story Marian building from Prospect Avenue. View D in Figure 4.2-3 and View E in Figure 4.2-4 present scenes of the project site’s eastern frontage along Prospect Avenue, including Marian building and the eastern parking lot at the entrance to the Convent. View D is the approximate location of the proposed cul-de-sac intersection with Prospect Avenue, while View E is the easternmost portion of proposed Lot 11.

View F in Figure 4.2-4 and Views G and H in Figure 4.2-5 show the project site from Prospect Avenue, north of its intersection with Reservoir Road. View F shows Prospect Avenue and the northern driveway entrance to the Convent facilities; the distant scenery encompasses a double row of trees immediately east of a site open area between the Siena building and the Regional Office building. This part of the project site would comprise Lots 12 and 13 of the proposed development. A view of the project site’s tennis court at the end of Prospect Avenue is obscured by the landscape trees on either side of Prospect Avenue.

In Figure 4.2-5, View G shows the open area between Siena and Regional Office buildings on the site; the Regional Office building can be seen in the background of View G. The open area is the proposed location of the Prospect Avenue cul-de-sac that would provide access to the driveways for Lots 14 through 17. View H shows the end of Prospect Avenue and the site driveway providing access to the Regional Office and Seraphine buildings. Mature landscape trees and a stone wall obscure potential views of the site’s tennis court. A portion of the tennis court area of the project site would become the future Lot 17 of the proposed development.





View A - SR 17, Highway 9 Viewing Platform



View B - View from Hwy 9 West of Viewing Platform





View C - Potential Tree Removal at Lot 2



View D - Tree Removal at Southern Cul-de-Sac Entrance





View E - Lot 11 Frontage on Prospect Avenue



View F - Potential Tree Removal at Lot 13 Driveway and Tree Removal at Northern Cul-de-Sac





View G - Tree Removal at Northern Cul-de-Sac



View H - View of Northern Cul-de-Sac and Proposed Lot 17



Potential scenic views of the Santa Cruz Mountain hillsides and ridges from roadways and residences immediately surrounding the project site are limited by the local terrain and extensive landscape tree plantings on the properties adjoining the site, as well as the trees on the site. The project site contains trees throughout the property, with large concentrations in the southern, western, and northern parts of the site. There are also extensive landscape plantings along the eastern boundary of the property, as can be seen in Figures 4.2-3 through 4.2-5. In addition, the Marian and Siena buildings are large, 3-story structures that also obstruct views across the project site from Prospect Avenue and adjoining residences.

Views of the project site from Prospect Court, to the south, are primarily of a parking lot immediately south of Marian building. The site's landscape trees in the parking lot and adjoining the building filter and screen views of the structure. Potential views of the project site from College Avenue and its residences are also blocked by an extensive woodland area on the western and southern hillside slopes of the site. Rear yard landscaping of residences along the east side of College Avenue also provide screening of site views.

## 4.2.2 REGULATORY AND PLANNING FRAMEWORK

### LOS GATOS GENERAL PLAN

General Plan policies that pertain to aesthetics and design are in the Land Use and Community Design Elements. Policies in these elements that relate to the proposed land use compatibility are discussed in Section 4.1, Land Use. The project's consistency with policies in design-related policies in these elements are discussed below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with conflicts with policies designed to protect the environment. Project consistency with those guidelines is discussed in the following project consistency analysis table.

#### General Plan Policies

#### Project Consistency Analysis

##### *Land Use Element*

*Goal LU-1: To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.*

*LU-1.3: Preserve existing trees, natural vegetation, natural topography, and riparian and wildlife habitats, and promote tasteful, high quality, well designed, environmentally conscious and diverse landscaping in new developments.*

##### *Community Design Element*

*CD-1.1: Building elements shall be in proportion with those traditionally in the neighborhood.*

*CD-1.2: New structures, remodels, landscapes and hardscapes shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area.*

The project would remove existing institutional buildings and replace them with single-family residences at a density that is less than or equal to adjacent residential densities. Most proposed development would be located in areas of the site that are currently developed, which would help protect the quality of life for surrounding residences and blend with the established character of the area. The project would retain at least 81% of existing protected trees on-site and development would avoid steep, wooded slopes on the western and northern margins of the site.

The consistency of future home designs with design-oriented policies and determination of whether future homes blend and harmonize with the existing neighborhood will be reviewed during the Architecture and Site (A&S) review process.

### General Plan Policies

*CD-1.3: Buildings, landscapes and hardscapes shall follow the natural contours of the property.*

*CD-3.2: Street and structural lighting shall be required to minimize its visual impacts by preventing glare, limiting the amount of light that falls on neighboring properties and avoiding light pollution of the night sky.*

*CD-15.7: Review all new development proposals to ensure that: (a) Outdoor lighting shall be limited. (b) Permitted lighting shall be of low intensity and for safety purposes... (d) The effects of indoor lights should be studied and reduced if found to be excessive.*

*CD-4.3: Trees that are protected under the Town's Tree Preservation Ordinance, as well as existing native, heritage and specimen trees, should be preserved and protected as a part of any development proposal.*

*CD-4.5: New development shall promote visual continuity through tree planting, consistent use of low shrubs and ground cover.*

*CD-4.7: Landscaping plans should maximize the use of trees for energy efficiency, climate control, screening, shading (especially of parking lots) and aesthetics.*

*CD-4.8: Landscaping plans shall maximize the use of local native plants and/or drought resistant plants.*

*CD-6.1: Reduce the visual impact of new construction and/or remodels on the Town and its neighborhoods.*

*CD-16.1: Prevent development that significantly depletes, damages or alters existing landscape vistas.*

*CD-16.3: New structures or remodels shall be designed to respect views from surrounding properties while allowing all affected properties reasonable access to views.*

### Project Consistency Analysis

Since the project site is already developed and level building pads were already created to accommodate existing development, policies relating to conserving the natural contours of the property do not pertain to the proposed project. Project development would, however, avoid steep, wooded slopes on the western and northern margins of the site.

Existing buildings on the project site are presently equipped with exterior lighting, and lighting is directed at on-site surface parking lots and driveways, and the project would not introduce a new source of lighting (see discussion below under Impact 4.2-4). During A&S review, proposed residential and street light designs would be required to demonstrate compliance with Town Code Section 29.10.09035, which prohibits the production of direct or reflected glare (such as that produced by floodlighting) onto any area outside of the boundaries of a given property.

The project would retain as many existing trees as possible along the site perimeter to help minimize changes in existing views of the site from surrounding areas and reduce the visual impact of new construction from surrounding areas. The project will be required to comply with the Town's Tree Preservation Ordinance (see Section 4.3, Biological Resources, Impact 4.3-6). There are 492 protected trees on-site, and up to 103 trees (21%) could be removed or lost. Most of the 492 protected trees on-site that would not be disturbed are generally located along the margins of the site, which would help to provide visual screening from surrounding areas. Required tree replacement in accordance with the Tree Protection Ordinance would be determined during A&S review as individual lots are developed. Replacement requirements for the trees removed as part of road construction would be shared among the 17 lots and required during the A&S review process for each lot.

The proposed project would not significantly impact existing scenic and landscape vistas (see Impact 4.2-1 for more discussion). The project would retain as many existing trees as possible along the site perimeter to help minimize changes in existing views of the site from surrounding areas. The A&S process will ensure that residences built on the site respect views from surrounding properties and allow neighboring properties to maintain reasonable access to their current views to the maximum extent feasible.

## HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES (HDSG)

With respect to projects involving land subdivisions, the HDSG contains the following development standard and guideline related to lot configuration and building locations:

### Hillside Development Standards and Guidelines

### Project Consistency Analysis

#### *II. Constraints Analysis and Site Selection*

##### *B. View Analysis*

*1. Viewing Platforms. Each development project with the potential for being visible from any established viewing platform shall be subject of a view analysis. ("Potential" is defined as capable of being seen from a viewing platform if trees or large shrubs are removed, significantly pruned, or impacted by construction.) The view analysis shall be conducted in compliance with established Town procedures using story poles that identify the building envelope.*

##### *2. Determination of Significant Ridgelines.*

#### *C. Selecting the Building Site - Standards*

*1. Locate Buildings within the Least Restrictive Development Area.*

*2. Preserve Views of Highly Visible Hillsides.*

*3. Reduce Visual Impact.*

*4. Ridgeline View Protection.*

*5. Preserve Natural Features.*

*6. Avoid Hazardous Building Sites.*

*7. Protect Riparian Corridors.*

*8. Protect Wildlife.*

#### *Guidelines*

*1. Solar Orientation.*

*2. Impact on Adjacent Properties.*

*3. Minimize Grading*

There are two viewing platforms located in the project vicinity: (1) west of the SR 17 southbound on-ramp on Highway 9/Los Gatos Saratoga Road; and (2) northwest corner of West Main Street/Bayview Avenue intersection. The site is not visible from the Highway 9/Los Gatos Saratoga Road Viewing Platform (see Figure 4.2-2, View A). From the West Main Street/Bayview Avenue Viewing Platform, views of the site are blocked by existing buildings and landscaping on the south side of West Main Street.

As indicated in Figure 4.1-2, proposed development would be located within the Least Restrictive Development Area. No development is proposed to occur on wooded hillsides located along the western and northern margins of the site, which would minimize visual impacts from areas to the north as well as preserve the site's natural features and avoid slope instability hazards. There are no riparian corridors on the site. Mitigation measures presented in Section 4.3, Biological Resources, would protect sensitive species during project construction.

With respect to solar orientation, the project site is comprised of a north trending ridge with good solar exposure and exposure to prevailing winds from the west-southwest. Proposed homes sites are located in developed areas, which are relatively level and maximizes solar exposure.

Regarding impacts on adjacent properties, since project homes would be lower in height and smaller in scale than existing on-site institutional buildings, the project would be more consistent with the visual character of the surrounding neighborhood.

Since the project site is already developed and level building pads were already created to accommodate existing development, grading requirements would be minimized because most proposed development is located in these developed areas.

## LOS GATOS TOWN CODE

**Los Gatos Tree Protection Ordinance.** As part of the Zoning Ordinance of the Los Gatos Town Code, measures are provided to ensure the continued protection and preservation of the Town's existing trees which contribute to the overall visual character of the community (Chapter 29, Zoning Regulations, Article I, Division 2, Tree Protection, Sections 29.-10.-0950 to 29.-10.1045). The Town of Los Gatos is forested by oak, bay, eucalyptus, sycamore, redwood, pine and other trees and contains individual trees of great beauty. As stated in the Ordinance, "the health and welfare of the citizens of the Town require that these trees be saved in order to preserve the scenic beauty of the Town, prevent erosion of topsoil, provide protection against flood hazards and risk of landslides, counteract pollutants in the air, maintain climatic balance and decrease wind velocities. Trees contribute significantly to the value of land in the Town." The Ordinance is intended to regulate the removal of trees within the Town in order to retain as many trees as possible, consistent with the reasonable use of private property. The Ordinance is also intended to preserve as many "Protected trees" (Sec. 29.10.0955) as possible throughout the Town through staff review and the development review process.

### 4.2.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based on criteria derived from Appendix G of the *CEQA Guidelines*, an impact to aesthetics is considered significant if the proposed project would:

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

#### METHODOLOGY

The impact analysis for Aesthetics is based on a review of visual changes from public viewing areas as a result of the project, and a comparison of these changes to the CEQA significance criteria: scenic vistas, scenic resources, visual character of the site and its surroundings, and light/glare. The Town's HDSG requires a view analysis for each development project with the potential for being visible from any established viewing platform and specifies locations to be used for visual or aesthetic analysis of hillside development.

In addition, photographs of the project site were taken from Prospect Avenue, which fronts along the site's eastern boundary. These locations are the closest public viewpoint locations where future residences permitted by the project's subdivision map would have the greatest visual impact since they would be in foreground view. Future residences permitted by the project would become part of background views from more distant viewpoint locations. The significance conclusions reached in this chapter reflect the professional judgment of the authors, although the Town recognizes that judgments regarding aesthetics are often subjective in nature.

### CHANGES IN SCENIC VISTAS

#### **Impact 4.2-1: The project would not substantially affect scenic vistas. (Less Than Significant)**

The proposed project would allow for the removal of the 11 structures, asphalt and concrete paving, retaining walls, decks, fencing, and various on-site domestic utility lines. Buildings to be removed include two 3-story structures, the Marian and Siena buildings, each encompassing over 35,000 s.f. Other buildings on the project site are 1- and 2-story structures used for residential, conference, and administrative purposes.

The project site would be subdivided into 17 residential lots ranging in size from 20,000 s.f. to 38,496 s.f. The project applicant proposes to sell all lots for residential development; residences would be designed and constructed by one or more builders. Each of the future residences would be subject to separate Architecture and Site (A&S) review by the Town.

As discussed in Section 4.2.1, the Town's HDSG require a view analysis for each development project with the potential for being visible from any established viewing platform. View A in Figure 4.2-2 demonstrates that a scenic vista is available from the Highway 9/Los Gatos Saratoga Road Viewing Platform designated by the Town. However, the views from this platform location consist primarily of foreground views of roadside landscaping and distant views of wooded hillsides in the town. View A indicates that the project site is not visible from this viewing platform and, consequently, the project would not affect the scenic vista available from this location. From the viewing platform located at the northwest corner of West Main Street/Bayview Avenue, views of the site are blocked by existing buildings and landscaping on the south side of West Main Street.

In order to determine whether the project could have an effect on a potential scenic vista as viewed from the vicinity of the Highway 9 Viewing Platform, a photo of the project area was taken immediately west of this viewing platform to portray a typical view of the project area from this location. While not required by the HDSG, View B (Figure 4.2-2) presents a view of the site's hillside location to determine the extent of the site's visibility from Highway 9 in the vicinity of the Town's designated Viewing Platform. The project site is located on a north-trending ridgeline (not identified as a significant ridgeline in the HDSG), but this ridge appears to obscure views of the existing buildings on the site from most areas of the town in the vicinity of the viewing platforms on Highway 9 and West Main Street. Since the

Convent's 3-story facilities are not visible from the Highway 9 Viewing Platform vicinity, future up to 2-story residential structures also would not be visible and substantially screened from views in this location by the project site's ridgelines and northern wooded hillside. While conceptual building footprints on Lots 15 and 16 appear to be on this ridge, mature oaks located north of these building locations could screen views of these homes, depending on the homes' heights and design. The Town's required A&S review for each of the future residences will include the installation of story poles and netting to demonstrate whether and to what extent the residence would be visible from the vicinity of Highway 9. The view of the project site's residences would be obstructed from observation from the SR 17/Highway 9 and West Main Street/Bayview Avenue Viewing Platforms themselves.

Potential scenic views of the Santa Cruz Mountain hillsides and ridges from roadways and residences immediately surrounding the project site are limited by the local terrain and extensive landscape tree plantings on the properties adjoining the site, as well as mature trees on the site. The project site is wooded, with large concentrations of trees in the southern, western, and northern parts of the site. There are also extensive landscape plantings along the eastern boundary of the property, as can be seen in Figures 4.2-3 through 4.2-5. The preservation of most trees on the project site in conjunction with the development of residential structures that are lower than or equal in height to the existing buildings on the site would preclude potentially adverse project effects on scenic vistas. The Town's A&S review would also include review and approval of tree removal and landscape plans for the new residences.

Since the project would not alter the visibility of the Santa Cruz Mountains hillsides and associated ridgelines, the project's impact on scenic vistas is considered to be a less-than-significant impact.

*Mitigation Measure 4.2-1: None required.*

#### CHANGES IN SCENIC RESOURCES

**Impact 4.2-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. (Less Than Significant)**

The project site is located approximately 0.1 mile southeast of SR 17. SR 17 is not a State-designated scenic highway and no scenic resources such as historic buildings or rock outcroppings occur on the project site. Therefore, the proposed project would not affect scenic resources, including but not limited to trees, rock outcroppings, and historic buildings, within a State-designated scenic highway. Furthermore, landscape trees along the western perimeter of the property generally screen views of the project site from this freeway. In addition, the section of the freeway in the vicinity of the project is lined with landscape trees on its median and immediately adjoining properties, thereby restricting views of the project site from the road. Views of the site are further reduced due to travel speed. Consequently, potential impacts on scenic resources within a State scenic highway would be less than significant, and no mitigation measures are required.

*Mitigation Measure 4.2-2: None required.*

#### CHANGES IN VISUAL CHARACTER

**Impact 4.2-3: The project would not substantially degrade the visual character or quality of the site and its surroundings. (Less Than Significant)**

The project site is located in a part of Los Gatos that is developed with single-family residential uses. The project site was developed as a convent under a use permit issued in the 1950s. The visual character of the surrounding project area reflects recent and well-maintained residential development on large lots (ranging between 0.2 to 0.9 acres) with ample landscaping. Native vegetation in the area is interspersed with landscape plantings that provide a semi-rural character for the hillside neighborhood. The southern part of the project area is comprised of open areas that are a part of Novitiate Park and St. Joseph's Regional Open Space, further contributing to the rural character of the project vicinity.

The 10.3-acre site's 85,000 square feet (s.f.) of building space, eight parking lots, driveways, paved paths, unpaved service roads, and various landscaped areas are situated in the eastern central portion of the property. Due to the concentration of the development within two relatively large buildings (Marian and Siena), the visual character of the project site is dominated by development that appears more institutional rather than residential. Extensive parking facilities on the project site also support the view that the project site is the subject of uses more intensive than the surrounding residential neighborhood.

The proposed project would replace the existing site development with 17 single-family residential lots. These lots would range from 0.5 to 0.8-acre in size, consistent with surrounding residential development. The demolition of the site's facilities and the development of the proposed residential lots would require the removal of some trees as well as the 3-story Marian and Siena buildings and other structures. Up to 21% of trees on the site could be removed for demolition, road construction, and building pad clearance. Of the 75 trees proposed to be removed, approximately 16 trees would be removed as part of road construction, while the remaining 59 trees could be removed during future home development on project lots. An additional 19 trees could be adversely affected by project implementation, and four of these trees are located adjacent to Prospect Avenue (Tree #52 on Lot 12, #271 on Lot 15, and #351 and #352 on Lot 16). There are an additional nine trees that would be removed since they were determined by arborists to be hazardous and six of these are located near Prospect Avenue. Potential loss of these trees could alter views of the project site lots from Prospect Avenue. Despite the change in views from potential loss of up to 22 trees along or near Prospect Avenue, overall views of the project site would change from views of an institutional facility to views of single-family homes similar to the existing adjacent neighborhood, a less-than-significant visual impact. Changes in views from the potential loss of the remaining 81 trees (those on lots) would be considered by the Town during A&S review when these lots are proposed for development. Most of these trees (proposed for removal or adversely affected by project implementation) would generally be within the central portion of the project site; the majority of trees on the periphery of the site would be preserved and would continue to provide screening of future residences on the project

site. The proposed residences would be distributed throughout the project site and would include new landscaping consistent with current plantings on-site and on surrounding residential properties. Tree replacement ordinance requirements on individual lots would have to account for tree removals on lots as well as those removed/lost due to road construction (see Section 4.3, Biological Resources, Impact 4.3-6 for more discussion).

The Town's A&S review process for new residences proposed on the site would ensure that tree removal, building design, and landscape planting would be consistent with design standards that guide residential development in the Town's hillside areas. The application of these guidelines, appropriate construction standards, and building code requirements would ensure that the new residential development would enhance rather than degrade the visual character of the project site, and would be consistent with the quality of the site's surroundings. As a result, the project would have a less than significant adverse effect on the visual character or quality of the site and its surroundings.

*Mitigation Measure 4.2-3: None required.*

## LIGHTING

### **Impact 4.2-4: The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. (Less Than Significant)**

Existing buildings on the project site are presently equipped with exterior lighting, and lighting is directed at on-site surface parking lots and driveways. The project would therefore not introduce a new source of nighttime lighting, as similar residential uses and outdoor lighting are present on the project site.

Nighttime lighting would not significantly affect any adjacent land uses. The closest uses that would be affected by nighttime lighting from the project would be the residential uses to the south on Prospect Court and to the east across Prospect Avenue. Proposed retention of existing trees along portions of the site boundaries and planting of additional landscape trees, combined with the separation between residences, and the location of proposed buildings within the project site, would reduce the potential for significant disturbance due to nighttime lighting. During A&S review, proposed residential designs would be required to demonstrate project compliance with Town Code Section 29.10.09035, which prohibits the production of direct or reflected glare (such as that produced by floodlighting) onto any area outside of the boundaries of a given property. This requirement would also preclude project lighting from spillover onto any area outside of the property boundary, thereby avoiding potential lighting impacts on the residences along Prospect Avenue, Prospect Court, Reservoir Road, and College Avenue. Therefore, potential impacts with regard to project lighting are considered to be less than significant, and no mitigation measures are required.

*Mitigation Measure 4.2-4: None required.*

**REFERENCES – AESTHETICS**

California Department of Transportation. *Officially Designated State Scenic Highways*. Available online at <http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm>.

Town of Los Gatos. *Town Code*. Codified through Ordinance No. 2202, Enacted September 19, 2011. Available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=25>.

Town of Los Gatos, 2010. *Town of Los Gatos 2020 General Plan*. September 20. Available online at <http://www.losgatosca.gov/index.aspx?NID=27>.

### 4.3 BIOLOGICAL RESOURCES

This section provides a discussion of the existing biological resources within the boundaries of the subject property and provides an analysis of potential impacts on biological resources from implementation of the proposed project. Where impacts are identified, mitigation measures pursuant to the California Environmental Quality Act (CEQA), the federal Endangered Species Act (FESA) the California Endangered Species Act (CESA), and other pertinent regulations are outlined.

The information in this biological resources section is based upon the following studies:

- Biological Resources Assessment Report by project applicant's consulting biologist, WRA Environmental Consultants (2013)
- Peer Review of Biological Resources Assessment by Town's consulting biologist, Wood Biological Consulting, Inc. (2013)
- Survey for Roosting Bats by Town-recommended consulting biologist, Coast Ridge Ecology (2013)
- Arborist Tree Inventory by project applicant's consulting arborist, John J. Leone (2013)
- Recommendations for Dispensation of Trees by applicant's consulting arborist, Barrie D. Coate and Associates (2013)
- Arborist Review by Town's consulting arborist, Arbor Resources (2013)

The results of the survey for roosting bats as well as the Town's biological peer review and arborist peer review are included in **Appendix B** of this EIR. The full Biological Assessment Report, Tree Inventory and Tree Assessment reports prepared by the applicant's consultants are available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday).

#### 4.3.1 ENVIRONMENTAL SETTING

The 10.3-acre subject property is characterized as primarily developed and landscaped, supporting structures, roads, paved parking lots and landscaping. In addition to 85,000 s.f. of building space, there is a network of paved roads, paved parking lots, gardens, reflecting ponds, lawns and ornamental landscaped grounds. Native trees are incorporated into landscaped areas.

The westernmost portion of the subject property slopes steeply down towards College Avenue and is separated from College Avenue by existing residential development. Portions of this hillside are densely wooded with both native and non-native trees, shrubs, vines and herbs. Although densely wooded, most of this area has been disturbed through construction of structures, retaining walls, paved and unpaved pathways, dirt access roads, and maintenance activities including brush clearing and ground cover mowing.

Los Gatos Creek, a USGS blue-line stream, which parallels Highway 17 in this area, is located approximately 500 to 600 feet northwest of the site. Low-density residential development occurs between the subject property and Los Gatos Creek. Los Gatos Creek consists of a trapezoidal concrete channel in this location. An additional unnamed, ephemeral to intermittent stream tributary to Los Gatos Creek, is located between 200 and 400 feet south and west of the subject property on the opposite side of College Avenue and is separated by existing residential development and the paved roadway of College Avenue. Lexington Reservoir is located approximately one mile south of the subject property, and Vasona Reservoir is located approximately two miles to the north.

### SITE BIOLOGICAL RESOURCES

**Table 4.3-1** summarizes the area of each biological community type observed in the subject property. Non-sensitive biological communities consist of 8.3 acres of developed land. Sensitive biological communities on the subject property consist of 2.0 acres of oak woodland situated on the western slope of the subject property and outside of the proposed boundaries for future development.

**TABLE 4.3-1**

**SUMMARY OF BIOLOGICAL COMMUNITIES ON THE PROJECT SITE**

<b>Community Type</b>	<b>Area (acres)</b>
Oak woodland (sensitive community)	2.0
Developed (non-sensitive community)	8.3
Total Area	10.3

### Plant Communities

**Developed Areas.** Approximately 8.3 acres of developed area are located within the subject property consisting of 85,000 square feet of dormitory buildings, administrative, ancillary and outbuildings, paved roads and parking lots, gardens, reflecting ponds, lawns, and ornamental landscaped grounds. Three reflecting ponds are located in developed portions of the subject property. These man-made ponds were excavated in uplands, and are concrete-lined and are filled with municipal water. As discussed in Section 4.3.2, the reflecting pools on-site would not be regarded as Waters of the United States (Federal Register, Vol. 51, No. 219, Section 328.3) or as a sensitive habitat (see discussion below under Section 4.3.2, Regulatory and Planning Framework).

**Oak Woodland.** A portion of the western slope of the subject property supports dense woodlands, which contain native oak trees (see Figure 4.1-2 for oak woodland location). Native oaks include coast live oak (*Quercus agrifolia*), black oak (*Quercus kelloggii*), and blue oak (*Quercus douglasii*). No one community is prevalent; instead woodlands contain a mixture of these oaks. Native species commonly encountered include coast live oak, California bay (*Umbellularia californica*), California buckeye (*Aesculus californica*), poison oak (*Toxicodendron diversilobum*), and toyon (*Heteromeles arbutifolia*), among others. Non-native (or native but non-indigenous) species commonly encountered include European olive (*Olea europaea*), black acacia (*Acacia melanoxylon*), Bailey acacia (*A. baileyana*), hawthorne (*Crataegus*

sp.), Atlas cedar (*Cedrus atlantica*), coast redwood (*Sequoia sempervirens*), cypress (*Cupressus* sp.), incense cedar (*Calocedrus decurrens*), French broom (*Genista monspessulana*) and Chinese jasmine (*Jasminum mesnyi*), among others. Many of the oaks are mature to over-mature, and display large cavities and exfoliating bark. The understory is moderately open and consists of limited native and non-native shrubs. Wildlife observed in this community included mule deer (*Odocoileus hemionus*), Steller's jay (*Cyanocitta stelleri*) and acorn woodpecker (*Melanerpes formicivorus*).

### **SPECIAL-STATUS BIOLOGICAL RESOURCES**

The following section presents a discussion of biological resources regarded as having special-status, including natural communities, plants, animals and trees. For a more detailed discussion of the laws and regulations applying to biological resources, see Section 4.3.2, Regulatory and Planning Framework.

#### **Special-status Natural Communities**

Special-status natural communities are those that are considered rare in the region, support special-status plant or wildlife species, or receive federal or State regulatory protection. A number of communities have been designated as rare and these communities are given the highest inventory priority (CNDDDB 2013; CDFW<sup>1</sup>/CDFG, 2010). In addition, natural communities or habitat features may be afforded protection pursuant to local ordinances or policies such as General Plan elements, Special Habitat Management Areas, and tree protection ordinances. Vegetation alliances given a rarity ranking of S1, S2 or S3 are considered to be of high inventory priority; alliances ranked as S4 or S5 are generally considered common enough to not be of concern. A summary of terrestrial natural communities with the global and state ranking is maintained by the California Department of Fish and Wildlife (CDFG, 2010).

No regulated wetlands, non-wetland waters, or riparian habitats are present on-site. Oak woodland on the subject property is beyond the top of bank of any stream or surface tributary and all native trees on-site are rooted outside of the riparian zone; as such, oak woodland on-site is characterized as being in uplands. As such, no oak woodland habitat would be regulated under any laws governing riparian habitats. Nonetheless, project construction and operation could have an adverse indirect effect on downstream water quality. (See Section 4.5, Hydrology and Water Quality, for an analysis of potential adverse water quality impacts and mitigation measures.)

A portion of the western slope of the subject property supports dense woodlands, which contain native oak trees. Native oaks include black oak, blue oak, and coast live oak. In Sawyer et al. (2009), the black oak, blue oak, and coast live oak woodland alliances are ranked S4. Plant communities with rarity ratings of S1, S2 and S3 are regarded as having special-status and impacts to such habitats should be addressed in

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<sup>1</sup> Effective January 1, 2013, the California Department of Fish and Game (CDFG) changed its name to the California Department of Fish and Wildlife (CDFW).

environmental documents. Plant communities with rarity ratings of S4 and S5 are generally not regarded as being sufficiently rare or threatened to warrant detailed analysis. However, oak woodlands on the subject property may be considered a sensitive biological community, as oaks comprising the woodland are protected under the Town's Tree Protection Ordinance (Town Code 29, Zoning Regulations, Article 1, Division 2). Impacts to sensitive communities identified in local or regional plans, policies, or regulations or those identified by the CDFW or the U.S. Fish and Wildlife Service (USFWS) must be considered and evaluated under CEQA (CCR Title 14, Div. 6, Chap. 3, Appendix G).

### **Special-status Plant Species**

As defined by the CDFW (CDFG, 2009), special-status plant species include those listed as endangered, threatened, rare, or as candidates for listing under FESA (50 CFR Section 17.12) and the CESA (California Fish and Game Code [CFGC] Section 2050 et seq.), or under the California Native Plant Protection Act (CNPPA; CFGC Section (CFGC 1900 et seq.), meet the definition of rare or endangered under CEQA (Section 15380(b) and (d)), are considered locally significant (Section 15125(c)) or are so designated in local or regional plans, policies, or ordinance (*CEQA Guidelines*, Appendix G).

Based upon a review of the resources and databases listed above, 70 special-status plant species have been recorded from the nine U.S. Geological Survey (USGS) quadrangles surrounding the subject property; nine species have been recorded within five miles of the project site. The presence of 61 special-status plant species can be ruled out due to their restriction to habitats not found on-site such as sand hills, coastal dunes, coastal prairie, chaparral, valley and foothill grassland, forest or wetland habitats, or their restriction to soil conditions not present on-site, such as serpentine or clay. The occurrence of the remaining nine species on-site is considered unlikely due to the presence of only moderately suitable habitat and the level of historic disturbance. A summary of the special-status plant species evaluated for the subject property and an explanation of all sensitivity status codes, an explanation of all rarity status codes, and all database print-outs are presented in Appendix C.

### **Special-status Animal Species**

Special-status animal species include those listed as endangered, threatened, rare, or as candidates for listing under FESA and CESA. Other species regarded as having special-status include Species of Special Concern (CDFG, 2011) and Birds of Conservation Concern (USFWS, 2008). Although CDFW Species of Special Concern generally have no special legal status, they are given special consideration under CEQA. In addition, most birds in the United States, including non-special status species, are protected by the Migratory Bird Treaty Act of 1918 (MBTA). Under this legislation, destroying active nests, eggs, or young of MBTA-listed species is illegal. The CFGC provides specific language protecting "fully protected birds", "fully protected mammals", "fully protected reptiles and amphibians" and "fully protected fish", as well as specific categories of wildlife such as raptors. The California Code of Federal Regulations prohibits the take of Protected Amphibians, Protected Reptiles and Protected Furbearers. The Western Bat Working Group (WBWG) ranks bat species based on conservation priority, and those ranked as medium- and high-priority are considered special status species by the state of California.

Based upon a review of the resources and databases listed above, 32 special-status animal species have been recorded from the nine USGS quadrangles surrounding the subject property, 12 of which have been recorded within five miles of the project site. The potential for occurrence on-site for a total of 64 special-status animal species was evaluated for the subject property.

No federally or State-listed animal species have been recorded as occurring on the subject property. Eleven special-status species are considered to have a moderate to high potential to occur on-site. These include six mammals (San Francisco dusky-footed woodrat, Townsend's big-eared bat, pallid bat, long-eared myotis, Yuma myotis and hoary bat) and five birds (Cooper's hawk, oak titmouse, Nuttall's woodpecker, Allen's hummingbird and Lawrence's goldfinch). Each of these is described below. A summary of the special-status wildlife species evaluated for the subject property, an explanation of all sensitivity status codes, and all database printouts are presented in **Appendix C**.

### **Special-Status Mammals**

**San Francisco Dusky-Footed Woodrat (CDFW Species of Special Concern – High Potential).** San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) is a California Species of Special Concern (CDFG, 2011) and one of eleven recognized subspecies. The San Francisco dusky-footed woodrat is found on the San Francisco Peninsula south to the southern edge of Santa Cruz County, and inland to the East Bay hills (Matocq, 2002). It is a medium-sized native rodent with large ears and a long, scantily haired tail. They inhabit oak and riparian woodlands with a well-developed understory as well as chaparral scrub habitats. These nests are conspicuous and may reach 6 feet in height, containing multiple chambers used for sleeping and food storage. Nests are usually occupied by single adults or females with young, and can be used by successive generations of woodrats. They exhibit high site fidelity, are highly arboreal and build stick nests that may last for 20 years or more. Reproduction occurs from February through September. Suitable nesting habitat is present in fallen and standing trees within the oak woodland and overgrown ornamental vegetation on-site. No woodrat nests were reported as being present on-site by WRA (2013). However, rat scat (possibly San Francisco dusky-foot woodrat) was detected by Coast Ridge Ecology within a few of the smaller buildings on the north side of the site (outbuildings/tool sheds, etc.). The scat was isolated to only a few locations.

**Pallid bat (CDFW Species of Special Concern, WBWG High Priority – Moderate Potential).** Pallid bats (*Antrozous pallidus*) are found in a variety of low elevation habitats throughout California. It selects a variety of day roosts including rock outcrops, mines, caves, hollow trees, buildings, and bridges. Night roosts are usually found under bridges, but also in caves, mines, and buildings. Pallid bats are sensitive to roost disturbance. Unlike most bats, pallid bats primarily feed on large ground-dwelling arthropods and prey are typically taken on the ground. This species has been documented to occur within four miles of the subject property (CNDDDB, 2013). Buildings and tree hollows provide potential roost habitat for this species; therefore; there is a moderate potential for this species to occur. Neither pallid bats nor evidence of occupation of this species was observed during field surveys by WRA and Coast Ridge Ecology.

**Townsend's big-eared bat (CDFW Species of Special Concern, WBWG High Priority – Moderate Potential).** Townsend's big-eared bat (*Corynorhinus townsendii*) ranges throughout western North America, from British Columbia to the central Mexico. They are typically associated with caves, but are also found in man-made structures, including mines and buildings. While many bats wedge themselves into tight cracks and crevices, big-eared bats hang from walls and ceilings in the open. Males roost singly during the spring and summer months while females aggregate in the spring at maternity roosts to give birth. Females roost with their young until late summer or early fall, until young become independent, flying and foraging on their own. Hibernation roosts tend to be made up of small aggregations of individuals in central and southern California (Pierson and Rainey, 1998, cited in WRA, 2013). The buildings may provide suitable roosting sites for Townsend's big-eared bats; therefore, there is a moderate potential for this species to occur. Neither Townsend's big-eared bats nor evidence of occupation by this species was observed during field surveys by WRA and Coast Ridge Ecology.

**Hoary bat (CDFW Special Animal, WBWG Medium Priority – Moderate Potential).** Hoary bat (*Lasiurus cinereus*) is most abundant in the forests and croplands of the plains states and in forests of the Pacific Northwest, and is also found in the forests of the eastern United States and the arid deserts of the Southwest (TPWD, 2012, cited in WRA, 2013). Diverse woodland habitats with a mixture of forest and small open areas that provide edges seem ideal for this species. Summer tree roosts are typically located along edge habitats close to feeding grounds. Most females rear young in deciduous trees, while males prefer to roost in conifers. Both sexes appear to prefer older trees as roosts, which they use for up to five weeks, they apparently provide greater safety. The mature conifer and broadleaf trees within the subject property are potential roost sites for hoary bat; therefore there is a moderate potential for this species to occur. Hoary bats were detected acoustically during bat surveys of the property by Coast Ridge Ecology in October 2013. This species forages over wide areas, and may utilize the property for foraging and/or roosting.

**Long-eared myotis (CDFW Special Animal, WBWG Medium Priority – Moderate Potential).** Long-eared myotis (*Myotis evotis*) occurs in semiarid shrublands, sage, chaparral, and agricultural areas, but is usually associated with oak woodland and mixed coniferous forests. Individuals roost under exfoliating tree bark, and in hollow trees, caves, mines, cliff crevices, sinkholes, and rocky outcrops on the ground. They also sometimes roost in buildings and under bridges. Buildings and trees within the subject property provide suitable roost sites for long-eared myotis; therefore this species has a moderate potential to occur. Neither long-eared myotis nor evidence of occupation by this species was observed during field surveys by WRA and Coast Ridge Ecology.

**Yuma myotis (CDFW Special Animal, WBWG Low Priority – Moderate Potential).** Yuma myotis (*Myotis yumanensis*) is found throughout most of California at lower elevations in a wide variety of habitats. Day roosts are found in buildings, trees, mines, caves, bridges, and rock crevices. Night roosts are usually associated with buildings, bridges or other man-made structures. Buildings and trees within the subject property provide suitable roost sites for Yuma myotis; therefore this species has a moderate

potential to occur. Neither Yuma myotis nor evidence of occupation by this species was observed during field surveys by WRA and Coast Ridge Ecology.

### **Special-Status Bird Species**

**Cooper's hawk (CDFW Special Animal (Watch List), Migratory Bird – High Potential).** Cooper's hawk (*Accipiter cooperi*) is covered under the California Fish and Game Code (CFG Code Section 3503.5), which prohibits the taking or destroying of nest, egg or bird in the order of Falconiformes (falcons, kites, and hawks) and Strigiformes (owls). This species is a small raptor that breeds in oak woodlands and deciduous riparian areas. Nests are often constructed near water and are vigorously defended. It forages in a variety of woodland and edge habitats. It is an agile flier and will pursue small birds and mammals through thickets and woodlands. During the winter, Cooper's hawks utilize a wider variety of habitats for foraging. Cooper's hawk is a confirmed breeder in Santa Clara County; the nearest record is approximately 5 miles north east of the subject property. Cooper's hawk was not observed during the site assessment.

**Oak titmouse (CDFW Special Animal, USFWS Bird of Conservation Concern – High Potential).** The oak titmouse (*Baeolophus inornatus*) occurs in open woodlands of oak, pine and oak, and juniper and oak. The nest is built in woodpecker holes and natural cavities; titmice sometimes partially excavate their own cavity. The mature oak woodland on-site provides suitable nesting and foraging habitat for this species; therefore there is a high potential for this species to occur based on the presence of acorn woodpecker and suitable tree cavities for nesting. Oak titmouse was not observed during the site assessment. Oak titmouse is a confirmed breeder in Santa Clara County.

**Nuttall's woodpecker – CDFW Special Animal, USFWS Bird of Conservation Concern. High Potential.** Nuttall's woodpecker (*Picooides nuttallii*) is associated with intact oak and riparian woodlands, rarely in conifers, and is a primary cavity nester. Nuttall's woodpecker is tolerant of human disturbance and the mature oak woodland on-site provides suitable nesting and foraging habitat. There is a high potential for this species to occur on-site based on the presence of acorn woodpecker and suitable tree cavities for nesting. Nuttall's woodpecker was not observed during the site assessment. Nuttall's woodpecker is a confirmed breeder in Santa Clara County.

**Allen's hummingbird – CDFW Special Animal, USFWS Bird of Conservation Concern. Moderate Potential.** Allen's hummingbird (*Selasphorus sasin*) is primarily a summer resident in the San Francisco Bay region. Breeding occurs in a variety of habitat types, but especially in riparian, oak woodland, and coastal scrub communities. Allen's hummingbird feed on nectar from a variety of herbaceous and woody flowering plants, and they also eat small insects and spiders. The mature oak woodland on-site provides suitable nesting and foraging habitat. There is a moderate potential for this species to occur. Allen's hummingbird was not observed during the site assessment. Allen's hummingbird is a confirmed breeder in Santa Clara County.

**Lawrence's goldfinch - CDFW Special Animal, USFWS Bird of Conservation Concern. Moderate Potential.** Lawrence's goldfinch (*Spinus lawrencei*) is an uncommon species endemic to arid woodland habitats in the Central Valley and coastal foothills of California, as well as northern Baja California. Annual distribution within the breeding range can be highly erratic. Wintering occurs in the greater southwest region, including southern California. Suitable woodland habitat is frequently dominated by oaks, and annual native plants are an important food resource. The oak woodland on-site provides suitable nesting and foraging habitat and the species is known to occasionally occur in the vicinity. Therefore, there is a moderate potential for Lawrence's goldfinch to occur. Lawrence's goldfinch was not observed during the site assessment. Lawrence's goldfinch is a confirmed breeder in Santa Clara County.

### PROTECTED TREES

An inventory of trees located on the subject property site was completed by Leone (2013). A revised inventory covering trees located just within the project boundaries was completed by Arbor Resources (2013). A total of 492 trees have been tallied and mapped on the subject property as being "protected trees" (subject to the Town's Tree Protection Ordinance), with 302 trees belonging to 51 species or varieties occurring within the boundaries where future development could occur (Leone, 2013, Arbor Resources, 2013). Of the trees situated in the possible future development area, 112 trees (37.1% of the total) are native trees presumed to be indigenous to the site. Native trees include coast live oak (49 trees; 16.2% of the total), blue oak (29 trees; 9.6% of the total), black oak (16 trees; 6.0% of the total), California bay (11 trees; 3.6% of the total), California buckeye (2 trees; 0.7% of the total), toyon (2 trees; 0.7% of the total) and blue elderberry (1 tree; 0.3% of the total). The remaining 190 trees (62.9% of the total) are non-native species or non-indigenous California natives planted as ornamentals. A complete inventory of trees within the possible future development area is presented in **Table 4.3-2**. The locations of inventoried trees are illustrated in Appendix B, Exhibit B.

Based on a review of the conceptual plan, trees considered "protected trees" under the Town's Tree Protection Ordinance may be impacted as a result of demolition, grading, underground utility work, road and driveway construction, and future residential construction (see Section 4.3.2 below for a discussion of this ordinance). As many as 75 protected trees could be removed and another 19 could be significantly impacted, which would lead to premature decline and/or uprooting (see **Table 4.3-3**). The worst-case scenario would result in the immediate or eventual loss of as many as 103 trees covered under the Town's Tree Protection Ordinance, or about one-third of the trees within the boundaries where future development may occur. Taking into account all protected inventoried trees on the subject property and not just those within the development area, project implementation would result in impacts to about one-fifth of the trees on-site.

**TABLE 4.3-2**  
**SUMMARY OF TREE INVENTORY RESULTS<sup>a</sup>**

Species	Tree Number(s)	Count	Percent of Total Trees Potentially Affected Within Development Areas
Aleppo pine	5, 92, 334a, 339, 525	5	1.7%
American arborvitae	85, 120, 213, 528	4	1.3%
American sweetgum	39, 41, 51, 52, 71, 284, 343	7	2.3%
Arizona cypress	24, 66, 99, 142, 143, 243	6	2.0%
black locust	277, 278	2	0.7%
blackwood acacia	8, 11, 62, 73, 88, 189, 198, 227	8	2.6%
blue elderberry	173c	1	0.3%
blue oak	25, 78, 82, 121a, 139-141, 158, 159, 164, 174, 190, 192, 202, 210, 211, 223, 224, 240, 241, 245, 246, 261, 263, 268, 271, 272, 294, 295	29	9.6%
California bay	101, 104, 122, 144, 173b, 176, 187, 201, 219, 225, 280	11	3.6%
California black oak	27, 74, 76, 102, 206, 207, 229, 237, 248, 259, 260, 270, 273-275, 289, 291, 298	18	6.0%
California buckeye	249, 299	2	0.7%
Canary Island date palm	283	1	0.3%
Chinese elm	290	1	0.3%
coast live oak	1, 7, 9, 10, 12, 13, 15, 16, 21, 23, 26, 31, 32, 50, 56-61, 72, 75, 77, 79, 81, 87, 157a, 212a, 165-167, 186, 208, 209, 212, 234, 235, 238, 242, 247, 262, 265, 266, 276, 282, 301, 302, 306, 344	49	16.2%
coast redwood	34, 83, 86, 173, 177, 188, 196, 212b, 226, 264, 285, 286, 307, 341	14	4.6%
Colorado blue spruce	94	1	0.3%
crabapple	195, 221	2	0.7%
crape myrtle	345	1	0.3%
cypress	103, 216, 218, 222	4	1.3%
deodar cedar	3, 4, 18, 33, 36, 45, 49, 191, 228, 334-337, 400-402	16	5.3%
Douglas-fir	6, 54, 55, 161, 236, 310-333	29	9.6%
eastern redbud	334b	1	0.3%
English holly	203	1	0.3%
English yew	42, 98	2	0.7%
evergreen pear	269	1	0.3%
fern pine	69	1	0.3%
glossy privet	22, 28, 31a, 80, 279	5	1.7%

**TABLE 4.3-2 (CONT'D)**  
**SUMMARY OF TREE INVENTORY RESULTS<sup>a</sup>**

Species	Tree Number(s)	Count	Percent of Total Trees Potentially Affected Within Development Areas
hawthorn	43, 204, 205, 217, 288, 293, 351, 352	9	3.0%
Hollywood juniper	44	1	0.3%
incense cedar	90, 91, 119, 178-181, 287, 300, 304, 340	11	3.6%
Italian cypress	100, 121, 200	3	1.0%
Italian stone pine	2, 338	2	0.7%
Jacaranda	66a	1	0.3%
Japanese maple	70	1	0.3%
juniper	93, 95-97, 118, 123, 197, 214, 215, 220	10	3.3%
lemonwood tree	160, 160a, 193	3	1.0%
maple	163, 212c	2	0.7%
Monterey cypress	64	1	0.3%
myoporum	526, 527	2	0.7%
Peruvian pepper	30, 89	2	0.7%
Ponderosa pine	162	1	0.3%
red-flowering gum	199	1	0.3%
shamel ash	67, 68	2	0.7%
Siberian elm	297	1	0.3%
silk oak	194	1	0.3%
silver-dollar gum	17, 19, 20, 29	4	1.3%
silver maple	35, 37, 45a, 47, 48	5	1.7%
Southern magnolia	38, 46	2	0.7%
strawberry tree	84, 267, 308, 308a-g, 309	11	3.6%
toyon	65, 138	2	0.7%
Victorian box	53, 63	2	0.7%
<b>Total</b>		<b>302</b>	<b>100%</b>

<sup>a</sup> Trees within the area of potential future development covered under the Los Gatos Tree Protection Ordinance.

**TABLE 4.3-3**  
**SUMMARY OF TREE IMPACTS<sup>a</sup>**

<b>Common name</b>	<b>To Be Removed</b>	<b>Potentially Impacted or Hazardous</b>	<b>Total Potentially Impacted</b>	<b>Percent of Each Species Impacted</b>
<i>Native Trees (indigenous to site)</i>				
blue oak	4	2	6	20.7%
California bay	3	0	3	27.3%
California black oak	2	0	2	11.1%
coast live oak	15	3	18	36.7%
toyon	1	0	1	50%
<i>Non-native/Non-Indigenous Trees</i>				
American sweetgum	1	2	3	42.9%
Arizona cypress	1	0	1	16.7%
black locust	1	0	1	50%
blackwood acacia	5	2	7	87.5%
Canary Is. palm	1	0	1	100%
Chinese elm	1	0	1	100%
coast redwood	2	5	7	50%
crabapple	1	0	1	50%
cypress	2	0	2	50%
deodar cedar	2	4	6	37.5%
Douglas-fir	9	6	15	51.7%
English yew	1	0	1	50%
evergreen pear	1	0	1	100%
glossy privet	3	0	3	60%
hawthorn	2	3	5	55.6%
Hollywood juniper	1	0	1	100%
incense cedar	2	0	2	18.2%
jacaranda	1	0	1	100%
Japanese maple	1	0	1	100%
juniper	4	0	4	40%
lemonwood tree	1	0	1	33.3%
maple	1	0	1	50%
Monterey cypress	1	0	1	100%
Peruvian pepper	1	0	1	50%
red-flowering gum	1	0	1	100%
silver maple	1	0	1	20%
silver-dollar gum	1	0	1	25%
southern magnolia	1	0	1	50%
Victorian box	1	0	1	50%
<b>Total - All Protected Trees Potentially Affected Within Development Areas</b>	<b>75</b>	<b>28</b>	<b>103</b>	<b>34.1%</b>

<sup>a</sup> Trees covered under the Los Gatos Tree Protection Ordinance that would be removed or significantly impacted as a result of project development (including demolition, road construction, and lot development) or removed because they are hazardous.

### 4.3.2 REGULATORY AND PLANNING FRAMEWORK

#### FEDERAL

##### U.S. Army Corps of Engineers

**Section 404 of the Clean Water Act of 1972.** Section 404 of the Clean Water Act (33 USC 1344) regulates activities that result in the discharge of dredged or fill material into Waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act authorizes the U.S. Army Corps of Engineers (USACE) to regulate dredging, filling, and construction activities in navigable waters.

The primary intent of the CWA is to authorize the U.S. Environmental Protection Agency (USEPA) to regulate water quality through the restriction of pollution discharges. The USACE has the principal authority to regulate discharges of dredged or fill material into Waters of the United States. However, the USEPA has oversight authority over the USACE and retains veto power over the USACE's decision to issue permits. Pursuant to 40 CFR 232.2, Waters of the United States are defined to include:

- All waters that are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of tide;
- All interstate waters, including interstate wetlands;
- All other waters, such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, vernal pools, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce;
- Tributaries of the above;
- Territorial seas; and
- Wetlands adjacent to waters defined above.

Wetlands belong to the broad category of Waters of the United States and are defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 CFR 328.3[b]; 40 CFR 230.3[t]). Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are areas of land which, are either permanently or seasonally wet and support vegetation specifically adapted to growing in saturated soils under conditions of low oxygen. To meet the legal definition of a wetland, a site must exhibit specific indicators of hydrologic, soil, and vegetation parameters. Indicators of all three wetlands parameters must be present for a site to be classified as a wetland (Environmental Laboratory, 1987, USACE, 2008).

The placement of fill material into Waters of the United States generally requires an individual or nationwide permit from the USACE pursuant to Section 404 of the CWA. There are no wetlands or other

Waters of the United States present on-site; the proposed project would not require authorization from the USACE under the CWA.

**Section 10 of the Rivers and Harbors Act.** Section 10 of the Rivers and Harbors Act of 1899 (RHA; 33 USC Sections 201 et seq.) authorizes the USACE to regulate dredging, filling, and construction activities in navigable waters. The RHA makes it a misdemeanor to discharge refuse matter of any kind into the navigable Waters of the United States without a permit.<sup>2</sup> The RHA also makes it a misdemeanor to excavate, fill, or alter the course, condition, or capacity of any port, harbor, channel, or other jurisdictional areas within without a permit. Although many activities covered by the RHA are regulated under the CWA, the RHA retains independent vitality. The RHA is administered by the USACE.

The proposed project would not affect navigable Waters of the United States and would not require authorization under the RHA.

**Executive Order 11990, Protection of Wetlands.** Executive Order 11990 (May 24, 1977) provides for the protection of wetlands. The administering agency for this Order is the USACE. The proposed project is not regulated under Executive Order 11990.

### U.S. Fish and Wildlife Service

**Federal Endangered Species Act.** Section 9 of the FESA (16 USC Sections 1531 et seq.; 50 CFR Parts 17 and 222), prohibits the “take” of federally listed endangered species of fish or wildlife and many plant species (16 USC Section 1538[a][1][B]). The FESA defines take to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or attempt to engage in any such conduct” (16 USC Section 1532[19]). Section 7(a)(2) of the FESA requires that actions authorized, funded, or carried out by federal agencies (i.e., issuing a permit pursuant to the CWA) do not “jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of lands determined by the USFWS to be ‘critical habitat’” for such species (16 USC Section 1536[a][2] and 16 USC Section 1532[5]). If a federal agency determines that a proposed federal action (i.e., issuance of a CWA Section 404 permit for wetland fill) “may affect” a listed species and/or designated critical habitat, the agency must consult with the USFWS and/or the National Marine Fisheries Service (NMFS) in accordance with Section 7 of the FESA. If take of a federally listed species may occur, the applicant may be required to obtain an incidental take permit from the USFWS. This permit allows the taking of federally listed species if the take is “incidental to and not the purpose of, the carrying out of an otherwise lawful activity” (16 USC Section 1539[a][1][B]). The USFWS and/or NMFS issues an Incidental Take Permit only if the applicant, to the maximum extent possible, has minimized and mitigated for the impacts of the taking and provided adequate funding for the mitigation plan, and if the taking would not

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<sup>2</sup> This specific provision is known as the Refuse Act.

appreciably reduce the likelihood of the survival and recovery of the species in the wild (16 USC Section 1539[a][2][B]).

Incidental take permits may be obtained as part of the Section 7 consultation between the USACE and USFWS and/or NMFS. These agencies review the Biological Assessment and determine the potential effects of a project on listed species. A project applicant must demonstrate efforts to avoid or minimize impacts on listed species and their habitat. If a project largely avoids impacts on federally listed species, USFWS may determine that a project would either “not affect” or is “not likely to affect” federally listed species. If a project would result in more substantial impacts, the USFWS usually issues either a Biological Opinion (BO) or a jeopardy opinion. A BO typically imposes conditions on the project, whereas a jeopardy opinion finds that a proposed project would jeopardize the continued existence of federally listed species. In this case, the USACE is prohibited from approving a project until modifications have been made to avoid jeopardizing the species and the USFWS has been consulted about the modified project.

No federally listed species are considered to have the potential to occur on-site or to be adversely affected by project implementation; authorization under FESA would not be required.

**Bald and Golden Eagle Protection Act.** The Bald and Golden Eagle Protection Act, as amended (BGEPA; 16 USC Sections 668-668c), provides protection for the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) by prohibiting the taking, possession, and commerce of such birds, their nests, eggs, or feathers unless expressly authorized by permit pursuant to federal regulations. Neither of these species is considered likely to occur on-site; the proposed project would not be in conflict with BGEPA.

**Migratory Bird Treaty Act.** The Migratory Bird Treaty Act of 1918, as amended (MBTA; 16 USC Sections 703–711; 50 CFR Subchapter B) includes provisions for the protection of migratory birds, including basic prohibitions against any taking not authorized by federal regulation. The MBTA makes it unlawful, unless expressly authorized by permit pursuant to federal regulations, to pursue, hunt, take, capture, kill, attempt to take, capture or kill, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export at any time, or in any manner, any migratory bird, or any part, nest, or egg of any such bird. The administering agency for the above authority is the USFWS. A majority of the bird species occurring within the project region receive protection under the MBTA. Numerous species of migratory birds may occur on-site; the proposed project would need to conform to the MBTA.

**STATE****California Department of Fish and Wildlife**

**California Fish and Game Code – Plant and Animal Species.** The CESA (CFGF Sections 2050-2068) includes provisions for the protection and management of species listed by the State as endangered or threatened or designated as candidates for such listing. The CESA states that “it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species” (CFGF Section 2053). The CESA also contains a general prohibition, applicable generally and not just to state agencies, against the “take” of listed species absent approval of an Incidental Take Permit or, in the case of plants, except in conformity with the CNPPA (CFGF Sections 1900-1913) and the California Desert Native Plants Act (CDNPA; CFGF Sections 2080, 2081). The California Fish and Game Commission has formally listed plant and animal species as endangered, threatened, or rare (14 CCR 670.2 and 14 CCR 670.5, respectively).

Four sections of the CFGF (Subsections 3511, 4700, 5050, and 5515) list 36 “fully protected species”. These statutes prohibit take or possession of fully protected species at any time. Senate Bill 618, enacted by the State Legislature on February 18, 2011, enables the CDFW to authorize incidental take of fully protected species when activities are proposed in areas inhabited by these species.

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

Bats are classified as non-game mammals and are afforded protection under various sections of the CFGF (e.g., CFGF Sections 86, 2000, 2014, 3007, and 4150). It is unlawful to take or possess a number of species, including bats, without a license or permit. They also receive protection under the California Code of Regulations (e.g., Title 14, Section 251.1, Article 20; Section 15380; and Section 15382), which makes it unlawful to harass, herd, or drive a number of species, including bats. Harassment is defined as “an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering.” For these reasons, bat colonies in particular are considered to be sensitive and therefore, disturbances that cause harm to bat colonies are unlawful.

State law also prohibits the take, possession, purchase or sale of protected furbearers (14 CCR Section 460). Additionally, the CDFW maintains lists of “Species of Special Concern” that are defined as species

that appear to be vulnerable to extinction because of declining populations, limited ranges, and/or continuing threats (CDFG, 2011).

Due to the potential for occurrence of special-status animal species, the proposed project would need to conform to the CFGC.

**California Fish and Game Code – Habitats.** Habitats potentially falling under the regulatory jurisdiction of CDFW are described in the CFGC (Division 2, Chapter 6, Sections 1600–1607). Absent a “Lake and Streambed Alteration agreement,” as amended in 2003, CFGC Section 1602 provides that “an entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.” The CDFW has traditionally taken a broad view of its jurisdiction under this statute and its predecessors, asserting that the definition of “stream,” as used in this context, includes “intermittent and ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams, and watercourses with subsurface flows. Canals, aqueducts, irrigation ditches, and other means of water conveyance can also be considered streams if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife”.

The Significant Natural Areas Program (CFGC Sections 1930–1940) was established to encourage the cooperation of federal, state, local, and private sectors, including private organizations and individuals, in efforts to maintain areas containing diverse ecological and geological characteristics, which are vital to the continual health and well-being of the State's natural resources and of its citizens.

The Natural Community Conservation Planning Act (NCCPA) authorizes the NCCP Program, which is designed to promote conservation of natural communities at the ecosystem scale, while accommodating compatible land use. The NCCP Program is broader in its orientation and objectives than the CESA and FESA. Those two laws are designed to identify and protect individual species that have already significantly declined in number, while the primary objective of the NCCP program is to conserve natural communities at the ecosystem level while accommodating compatible land use. The program seeks to anticipate and prevent the controversies and gridlock caused by species' listings by focusing on the long-term stability of wildlife and plant communities and including key interests in the process. Working with landowners, environmental organizations, and other interested parties, a local agency oversees the numerous activities that compose the development of a conservation plan. Both the CDFW and USFWS provide the necessary support, direction, and guidance to NCCP participants.

No special-status habitats or landscape features are present on-site; the proposed project would not be regulated under any of these sections of the CFGC.

### **Regional Water Quality Control Board**

#### **CWA, Section 401 Certification and the State of California's Porter-Cologne Water Quality**

**Control Act.** The State's authority to regulate activities in wetlands and waters at project sites resides primarily with the RWQCB, which regulates construction in Waters of the United States and Waters of the State, including activities in wetlands, under both the CWA and the State of California's Porter-Cologne Water Quality Control Act (Porter-Cologne; California Water Code, Division 7). Under the CWA, the RWQCB has regulatory authority over actions in water of the United States, through the issuance of water quality certifications, pursuant to the CWA (§401), which are issued in conjunction with permits issued by the USACE under Section 404 of the CWA. The RWQCB must certify that a USACE permit action meets State water quality objectives (CWA §401 and Title 23 CCR §3830, et seq.). When the RWQCB issues a Section 401 certification, a project is also regulated under SWRCB Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of said water quality certification. Activities in areas that are outside of the jurisdiction of the USACE (e.g., isolated wetlands, vernal pool, or stream banks above the ordinary high-water mark) are regulated by the RWQCB, under the authority of Porter-Cologne. Activities that lie outside of USACE jurisdiction may require the issuance of either individual or general waste discharge requirements. The California Wetlands Conservation Policy (Executive Order W-59-93) establishes a primary objective to "ensure no overall net loss ... of wetlands acreage and values in California." The RWQCB implements this policy and it's Basin Plan Wetland Fill Policy by requiring mitigation for wetland impacts.

While the proposed project would not directly affect Waters of the State, conformance to State water quality standards is still required to prevent the release of contaminants during project construction and operations.

### **California Board of Forestry and Fire Protection**

The California Board of Forestry and Fire Protection (CBFFP) defines oak woodlands as any significant stand of oak tree species, meaning those stands with a canopy cover of 10 percent or greater (CBFFP 2006).; Cal. Fish & Game Code Section 1361 The Board has regulatory authority over all of California's forested landscapes, including the power to regulate oak woodlands at the local or state level (California Oak Foundation 2007). The following State legislation governs development in oak woodlands.

**Public Resources Code 21083.4 (Senate Bill 1334), Oak Woodland Conservation.** This legislation became effective on January 1, 2005 and contains three elements: (A) counties must determine whether a project may result in the conversion of oak woodland (an "oak" is defined as oak trees 5 inches or more in diameter at breast height); (B) if so, the county must determine if the conversion would have a significant impact on the environment; and (C) if there is a conversion and it is determined to be a significant impact, the county must impose one or more of the following mitigation measures:

- (1) Conserve oak woodlands, through the use of conservation easements;

- (2) Plant an appropriate number of trees, including maintaining plantings and replacing dead trees;
  - a. Maintain planted oak trees for seven years; and
  - b. The planting of oak trees shall not fulfill more than one-half of the mitigation requirements for the project.
- (3) Contribute funds to the Oak Woodlands Conservation fund; and/or
- (4) Other mitigation measures developed by the county.

Public Resources Code 21083.4 only applies to CEQA determinations by county governments and does not apply to those of local lead agencies. However, other public agencies are still subject to the general guidelines of CEQA, including the oak woodlands scientific information that acknowledges the need to conserve oak woodland resources (California Oak Foundations web site: [http://www.californiaoaks.org/html/oak\\_report\\_03-05.html](http://www.californiaoaks.org/html/oak_report_03-05.html)).

The proposed project would not conflict with Public Resources Code 21083.4.

## LOCAL

### Town of Los Gatos

**Tree Protection Ordinance.** The Town of Los Gatos' Tree Protection Ordinance (Town Code Sections 29.10.0950-29.10.1045) prohibits the removal of any protected tree without first obtaining a permit. Under the ordinance, "protected tree" is defined as: 1) any tree with a trunk diameter of twelve inches or greater; 2) any tree of the following species having a trunk diameter of eight inches or greater: blue oak (*Quercus douglasii*), black oak (*Quercus kelloggii*), California buckeye (*Aesculus californica*), and Pacific madrone (*Arbutus menziesii*); 3) where zoning or subdivision approval is required, any tree having a trunk diameter of four inches or greater; 4) any tree existing at the time of zoning or subdivision approval which was a subject of the approval; 5) any tree required to be planted or retained under a development application, building permit or subdivision approval; 6) any tree with a trunk diameter of four inches or greater located on a vacant or undeveloped property; 7) any tree with a trunk diameter of four inches or greater which is on any developed commercial, office, or industrial property; 8) any publicly owned trees; and 9) any stand of trees, where each individual tree is dependent on the others for survival of the entire stand. Under the Tree Protection Ordinance, trunk diameter for single-trunk trees is measured at three feet above the natural grade and the diameter of any multi-trunk tree is measured as the sum of diameters of all trunks, taken at a height just above the trunk union. Trees not covered under the Tree Protection Ordinance include fruit and nut trees less than 18 inches in diameter.

Under the Tree Protection Ordinance, both a Tree Survey Plan and Tree Preservation Report prepared by a qualified arborist must accompany any application for new property development. The tree survey must include the trunk diameter, canopy spread, species, condition and location of all protected trees occurring within thirty feet of the proposed development, as well as all protected trees which may be directly or

indirectly impacted by the project. The tree preservation report must include specific steps that will be taken in order to ensure that retained protected trees are not impacted during construction and operation phases of the project.

As a condition on which a Protected Tree removal permit is granted, two or more replacement trees of a species and a size designated by the Director of Parks and Public Works Department, shall be planted in the following order of preference:

1. Two or more replacement trees, of a species and size designated by the Director of Parks and Public Works Department, shall be planted on the subject private property. The Tree Canopy Replacement Standard (**Table 4.3-4**) shall be used as a basis for this requirement. The person requesting the permit shall pay the cost of purchasing and planting the replacement trees.
2. If a tree cannot be reasonably planted on the subject property, the value of the removed tree(s) shall be paid to the Town Forestry Fund to:
  - Add or replace trees on public property in the vicinity of the subject property, or
  - Add trees or landscaping on other Town property. Replacement value of a tree shall be determined using the most recent edition of the Guide for Plant Appraisal, as prepared by the Council of Tree and Landscape Appraisers.

The proposed project will be subject to the regulations contained in the Tree Protection Ordinance.

**TABLE 4.3-4**

**TREE PROTECTION ORDINANCE TREE CANOPY REPLACEMENT STANDARD**

<b>Canopy of the Removed Tree (Maximum distance across the canopy)</b>	<b>Replacement Trees</b>	<b>Alternative Tree</b>
4 to 9 Feet	Two 24-inch Box Size (Minimum)	One 36-inch Box Size
10 to 27 Feet	Three 24-inch Box Size	Two 36-inch Box Size
28 to 40 Feet	Four 24-inch Box Size	Two 48-inch Box Size
40 to 56 Feet	Six 24-inch Box Size	Two 36-inch Box Size Two 48-inch Box Size
56 to 60 Feet	Two 24-inch Box and Two 36-inch Box plus Two 48-inch Box Size	Determined by the Director
60+ Feet	Determined by the Director	Determined by the Director

**Guidelines and Standards for Land Use Near Streams.** The riparian zone is at the interface between upland and wetland or aquatic systems. Biologically, healthy riparian zones are species diverse, highly

productive environments, providing structural diversity, breeding and foraging opportunities for a wide host of organisms. Riparian vegetation is particularly critical for the support and maintenance of native fisheries. Tree canopies shade the surface of flowing streams, keeping water temperatures low. Riparian vegetation preserves water quality by restricting erosion and sedimentation. Tree roots stabilize channel banks and contribute to the formation of riffles and pools, which are essential for breeding, feeding, and over-summering. Riparian vegetation also slows the movement of water downstream and through the soil profile, resulting in its gradual release into stream channels, prolonging the availability of surface water into the dry summer season. Large woody debris creates hiding spaces for fry and adult fish, and leaf litter promotes invertebrate populations, an essential food source for fish species.

In their publication *Guidelines and Standards for Land Use Near Streams* (SCVWRPC, 2007; hereafter referred to as *Guidelines*), the vital role of riparian vegetation in “maintaining stream stability, providing valuable wildlife habitat, and moderating downstream flooding”, as well as regulating water quality by filtering “pollutants from stormwater, such as oil and grease from roadways, fertilizer runoff from lawns, and excess sediments from upstream” (p. 4.3) is emphasized. Specifically, the streamside environment supports riparian vegetation and the functions riparian vegetation provides. Riparian vegetation benefits terrestrial species, as well as semi-aquatic amphibians and reptiles and fish. Such habitat functions include:

- Sediment stabilization: provided by riparian trees, shrubs, and grasses.
- Shading and water temperature moderation: provided by mature riparian shrubs and trees.
- Overhanging escape cover: provided by shrubs and grasses near the stream edge.
- Coarse particulate organic matter: organic material dropping into the stream in the form of leaves, insects, etc., that provide input for aquatic food webs.
- Bird breeding and foraging habitat: provided by mature native riparian species, such as cottonwoods and willows, oaks, other trees, shrubs, forbs, grasses, and the streambank itself.
- Foraging, refugia, aestivation, and breeding habitat for semi-aquatic amphibian and reptile species: provided by low vegetation, rocks, downed materials, and the streambanks itself.
- Foraging, breeding, hibernacula, and dispersal habitat for mammals: provided by the riparian vegetation and the streambanks substrate.

Pursuant to the *Guidelines*, riparian vegetation is defined as including:

1. Vegetation which occurs in and/or adjacent to a watercourse. For the purpose of administering Fish and Game Code Section 1600, et seq., this should be expanded to include vegetation adjacent to lakes as well.
2. Vegetation growing on or near the banks of a stream or other body of water on soils that exhibit some wetness characteristics during some portion of the growing season.

3. Vegetation that occurs along watercourse, and is structurally or floristically distinct from nearby, non-streamside vegetation.
4. Riparian vegetation is terrestrial vegetation that grows beside rivers, streams, and other freshwater bodies and that depends on these water sources for soil moisture greater than would otherwise be available from local precipitation.

The Town of Los Gatos has adopted Chapters 2 and 3 of the Guidelines, which contain the adopted requirements of the Town of Los Gatos for construction near streams. Chapter 4 contains detailed specifications for use by architects, engineers and other project designers. Under the *Guidelines*, Streamside Protection Areas include “all properties abutting or in proximity to a stream, including all properties located with 50 feet from the top of bank.” Development of any property within a Streamside Protection Area shall be subject to review by the Town unless the activity is specifically exempted under the *Guidelines* (e.g., Section 2C). Regulated projects must conform to the *Guidelines*, which provide specifications for protection of the riparian corridor, bank stabilization, encroachments, erosion prevention, grading, site drainage, channelization, utility encroachments, trail construction, septic systems, trash control and removal, protection of water quality, groundwater protection, and flood protection (Sections 3B.I through 3B.XIV).

The subject property is not located within 50 feet of a stream and is therefore not subjected to subject to review for conformance to the *Guidelines*.

**Los Gatos General Plan.** The goals, policies, and implementation measures in the General Plan for biological resources applicable to the proposed project are provided below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with conflicts with policies designed to protect the environment. Project consistency with those guidelines is discussed in the following project consistency analysis table.

General Plan Policies	Project Consistency
<p><i>Environment and Sustainability Element</i></p> <p><i>ENV-1.1: Preserve trees that are protected under the Town’s Tree Protection Ordinance, as well as other native heritage, heritage and specimen trees.</i></p> <p><i>ENV-1.2: Public and private projects shall protect special-status native plant species.</i></p> <p><i>ENV-1.3: Prohibit development that significantly depletes, damages or alters existing special-status plants.</i></p> <p><i>ENV-1.5: Prohibit the use of invasive plant species listed by the California Invasive Plant Council (Cal-IPC) for all new construction.</i></p> <p><i>ENV-1.7: Require new development to use native plants or other appropriate non-invasive plants to reduce maintenance and irrigation costs and the disturbance of adjacent natural habitat.</i></p>	<p>The proposed project consists of subdividing a 10.3-acre parcel supporting natural habitats with moderate value to native wildlife species and potentially supporting special-status animal species. Implementation of protective measures outlined in Mitigation Measures 4.3-1 through 4.3-3 would be required to ensure that potential impacts on these special-status species would be reduced to less than significant. The proposed project would not directly affect native oak woodland habitat on-site.</p> <p>Project implementation would result in the removal or significant impacts to as many as 103 protected trees (up to 75 from road and lot development, 19 trees could be adversely affected by possible future residential development, and 9 are hazardous) and the preservation of as many as 389 protected trees. The</p>

**General Plan Policies****Project Consistency**

	<p>contractor/developer that demolishes the buildings and develops the roads/infrastructure/lots, as well as future lot owners would be required to comply with the Los Gatos Tree Protection Ordinance, which would include implementing the Town's Consulting Arborist's tree protection recommendations (see Appendix B). Compliance with this ordinance would reduce potential tree removal impacts to a less-than-significant level. In addition, the use of invasive species listed by the California Invasive Plant Council (Cal-IPC 2013) shall be prohibited as required in Policy ENV-1.5.</p> <p>The replacement of existing ornamental plant species with new landscaping, consisting of both native and non-invasive plant species, will be required as part of A&amp;S review for each lot development.</p>
<p><i>ENV-3.1: Preserve riparian corridors and riparian habitats and avoid disturbances to these areas.</i></p> <p><i>ENV-3.2: Ensure development prevents damage to native plants in the hillsides, riparian areas, watersheds and other sensitive natural habitats.</i></p> <p><i>ENV-3.3: Retain creek beds, riparian corridors, watercourses and associated vegetation in their natural state to assist groundwater percolation and prevent erosion and downstream sedimentation.</i></p> <p><i>ENV-3.4: Require setbacks or other protective measures as appropriate to protect riparian corridors.</i></p> <p><i>ENV-3.5: Promote the planting of local native trees and shrubs on land surrounding reservoirs and streams, especially adjacent to areas where banks or channels have been modified for flood protection.</i></p>	<p>No streams, surface tributaries or riparian habitats are present on-site, grading on the site perimeter would require the removal of up to 103 protected native and non-native trees within the managed landscaping, but project implementation would avoid disturbance of native oak woodland. With compliance with the Tree Protection Ordinance and proposed protection of oak woodland habitat, which is the only sensitive habitat, the project's impacts on these resources would be less than significant.</p> <p>There are no creek beds, riparian corridors, water courses on the property. With implementation of required water quality protection measures outlined in Section 4.5, Hydrology and Water Quality (see Impact 4.5-1), the project's impacts on these resources would be less than significant and the project would prevent erosion and downstream sedimentation.</p> <p>The project site is not in or near a riparian corridor so no setbacks or other protective measures are required. There is no land on-site surrounding reservoirs or streams.</p>
<p><i>ENV-4.1: Development shall not significantly deplete, damage or alter existing wildlife habitat or populations.</i></p> <p><i>ENV-4.3: Maintain open space and native plant communities that provide habitat and migration corridors for native wildlife species.</i></p> <p><i>ENV-4.4: Identify and protect areas with significant habitat diversity or importance for wildlife, such as riparian corridors, wildlife movement corridors and large tracts of undeveloped land.</i></p> <p><i>ENV-4.5: Public and private projects shall provide the maximum protection of wildlife populations.</i></p> <p><i>ENV-4.7: Nesting sites shall be preserved in new development and within existing development unless a</i></p>	<p>The project design allows for the preservation of the existing native oak woodland on the site and the conservation of natural habitat on the slopes above Los Gatos Creek. The level portions of the project site have been previously developed for residential and institutional purposes and therefore, project-related development in these areas would not adversely impact open space, native plant communities, or wildlife, nor would wildlife movements be hindered. Implementation of protective measures outlined in Mitigation Measures 4.3-1 through 4.3-3 would ensure compliance with applicable laws and policies protecting special-status species and migratory birds and the project's impacts on these resources would be reduced to less than significant.</p>

**General Plan Policies****Project Consistency**

*mitigation plan is approved.*

*ENV-4.11: The Town shall require open space dedications as a means to protect wildlife.*

*ENV-4.12: Town staff shall review site plans to ensure that existing significant wildlife habitats and migration corridors are not adversely affected by either individual or cumulative development impacts.*

**Santa Clara County Habitat Conservation Plan/Natural Community Conservation Plan**

**(HCP/NCCP).** The cities of Gilroy, Morgan Hill and San Jose, the County of Santa Clara, the Santa Clara Valley Transportation Authority and the Santa Clara Valley Water District have implemented a Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) for the Santa Clara Valley (ICF International, 2010). The Town of Los Gatos is not a participating agency in the HCP/NCCP; there is no adopted HCP/NCCP that covers the project site.

**4.3.3 POTENTIAL IMPACTS AND MITIGATION MEASURES****SIGNIFICANCE CRITERIA**

Based on the “mandatory findings of significance” found in *CEQA Guidelines* Section 15065[a], criteria derived from Appendix G to the *CEQA Guidelines*, and federal and state laws protecting special-status species and wetlands, the Town of Los Gatos considers project impacts to biological resources to be “significant” under CEQA if the project would:

- 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;
- Substantially reduce the number or restrict the range of rare or endangered plant or animal species;
- 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 CDFW or USFWS;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community (i.e., aquatic and wetland habitat) identified in local or regional plans, policies, regulations or by the CDFW or USFWS;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;

- Have a substantial adverse effect on wetlands protected under the Porter-Cologne Water Quality Control Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Based on the project's location, no impacts are anticipated with respect to the above criterion:

- *Cause a fish or wildlife population to drop below self-sustaining levels;*
- *Threaten to eliminate a plant or animal community;*
- *Substantially reduce the number or restrict the range of an endangered, rare or threatened species;*
- *Have a substantial adverse effect on riparian habitat, federally protected wetlands as defined by Section 404 of the CWA, and wetlands protected under the Porter-Cologne Water Quality Control Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;*
- *Conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.*

No special-status habitats are present on-site. As noted in Section 4.3.2 above, no waters of the United States are present on the site. Although Los Gatos Creek, a riparian corridor that is a water of the United States regulated under the Clean Water Act, is downstream to the subject property, project implementation would have no direct effects on the creek. Project implementation would not result in any direct adverse effects on waters of the U.S. or waters of the State. Potentially significant indirect adverse effects on water quality could result from project implementation and are addressed in Section 4.5, Hydrology and Water Quality (Impact 4.5-1).

As discussed above in Section 4.3.2, the project site is not currently located within the project area for the Santa Clara Valley HCP/NCCP; there is no adopted HCP/NCCP that covers the project site. The project would not impact any riparian or wetland habitat associated with Los Gatos Creek and would not alter any existing wildlife movement corridors associated with the creek. Therefore, the proposed project would not hinder the ability of the Plan partnering jurisdictions to establish a preserve system.

## METHODOLOGY

For the purposes of this report, it is assumed that impacts would occur primarily in areas where grading and the construction of buildings, driveways, roadways, and other infrastructure are proposed.

This biological evaluation is based on the conclusions presented in biological assessment prepared by WRA Environmental Consultants (2013), but updated based on a peer review by Wood Biological Consulting, Inc. (2013). Background information regarding the recorded distribution of special-status species presented in this section was obtained through queries of databases maintained by the California Natural Diversity Database (CNDDDB, 2013), the California Native Plant Society CNPS, 2013), and the U.S. Fish and Wildlife Service (USFWS, 2011). Additional information regarding special-status and common plant and wildlife species was obtained by review of published lists of special-status species (CDFG, 2011a,b; CDFG, 2012a,b; USFWS, 2010). A list of special status plant and animal species that occur in the project region is included as Appendix C of this EIR.

The tree inventory was prepared by the applicant's arborist, John J. Leone (2013); an analysis of tree impacts from the proposed project was performed by Barrie D. Coate and Associates (2013), also under contract to the applicant. A peer review of these reports was performed by the Town's arborist, Arbor Resources (2013). The Town's biological peer review and arborist peer review are included in Appendix B of this EIR. The full Biological Assessment Report, Tree Inventory and Tree Assessment reports prepared by the applicant's consultants are available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday).

## IMPACTS ON SPECIAL STATUS SPECIES AND HABITATS

**Impact 4.3-1: Project development could have a substantial adverse effect, either directly or through habitat modification, to nesting special-status and other migratory birds identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. (Less than Significant with Mitigation)**

Within the study area, oak woodland, ornamental trees and shrubs, and structures provide nesting habitat for special-status and other migratory bird species. Site clearing activities (e.g., structure demolition, tree and shrub removal or pruning) could result in direct or indirect impacts to nesting birds by causing the destruction or abandonment of occupied nests. Direct and indirect impacts to special-status and migratory bird species would be considered potentially significant under *CEQA Guidelines*. However, with implementation of Mitigation Measure 4.3-1, Protection of Nesting Special-status and Migratory Birds, this potential impact would be reduced to a less-than-significant level.

***Mitigation Measure 4.3-1, Protection of Nesting Special-status and Migratory Birds:*** *In order to avoid impacts to special-status and migratory bird species during project implementation, the measures*

*outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided.*

- a. The removal of trees and shrubs shall be minimized to the extent feasible.*
- b. If tree removal, pruning, grubbing and demolition activities are necessary, such activities shall be conducted outside of the breeding season (i.e., September 1 through January 31) to avoid impacts to nesting birds to the extent feasible.*
- c. If tree removal, pruning, grubbing and demolition activities are scheduled to commence during the bird breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted by a qualified biologist. The survey shall be performed no more than two weeks prior to the initiation of work. The preconstruction survey shall include the grading footprint and up to a 250-foot buffer, where feasible, depending on access and lines of sight. If no active nests of special-status or other migratory birds are found, work may proceed without restriction and no further measures are necessary. If ground disturbance is delayed more than two weeks from the date of the preconstruction survey, the survey shall be repeated, if determined necessary by the project biologist.*
- d. If active nests (i.e. nests with eggs or young birds present) of special-status or migratory birds are detected, the project biologist shall designate non-disturbance buffers at a distance sufficient to minimize disturbance based on the nest location, topography, cover, species, and the type/duration of potential disturbance. No work shall occur within the non-disturbance buffers until the young have fledged, as determined by a qualified biologist. Active nests of MBTA species identified should be protected by a 50-foot radius exclusion zone. Active raptor or special-status species' nests should be protected by a buffer with a radius of 200 feet. A minimum 500-foot exclusion buffer should be established around active white-tailed kite nests. If, despite the establishment of a non-disturbance buffer it is determined that project activities are resulting in nest disturbance, work shall cease immediately and the CDFW and the USFWS Migratory Bird Permit Office shall be contacted for further guidance.*
- e. If project activities must occur within the non-disturbance buffer, a qualified biologist shall monitor the nest(s) to document that take of the nest (i.e., nest failure) is not likely to result. If it is determined that project activities are resulting in significant nest disturbance, work shall cease immediately and the CDFW and the USFWS Migratory Bird Permit Office shall be contacted for further guidance.*

**Impact Significance After Mitigation:** Less than significant since take of special-status or other migratory birds would be avoided with implementation of these mitigation measures.

**Impact 4.3-2: Project development could have a substantial adverse effect, either directly or through habitat modification, to special-status bats, identified as candidate, sensitive, or special**

**status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. (Less than Significant with Mitigation)**

Both mature trees and existing structures located within the project boundaries and nearby provide suitable roosting and foraging habitat for special-status bat species. In October 2013, Coast Ridge Ecology biologists surveyed all structures on the site for roosting bats and conducted emergence surveys for bats on two nights (see Appendix B for detailed description of survey methodology and results). Each building was thoroughly inspected, and accessibility to roof areas and crawl spaces was very good. No bats or evidence of bats were observed on or within any of the structures on the project site. No bats were observed to have exited the structures during the emergence surveys. The emergence surveys detected some bats (possibly foraging or traveling through the site). However, no bats were observed to have exited from any of the structures. Species detected acoustically included: hoary bat (*Lasiurus cinereus*), Brazilian free-tailed bat (*Tadarida brasiliensis*), big brown bat (*Eptesicus fuscus*), and one unidentified species, possibly California myotis (*Myotis californica*) detected acoustically at 50 kHz. All of the bats detected may potentially roost in trees on-site or within structures and/or trees on adjacent properties. The oak woodland habitat on-site provides excellent foraging habitat for several bat species.

Therefore, if bat roosts are present at the time of construction, direct and indirect impacts could occur. Direct and indirect impacts to special-status bat species would be considered potentially significant under *CEQA Guidelines*. However, with implementation of Mitigation Measure 4.3-2, Protection of Roosting Bats, this potential impact would be reduced to a less-than-significant level.

***Mitigation Measure 4.3-2, Protection of Roosting Bats:*** *In order to avoid impacts to special-status bats during project implementation, the measures outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided:*

- a. *Impacts to suitable roost sites shall be avoided or minimized to the greatest extent feasible.*
- b. *If feasible, tree removal, pruning, grubbing and demolition of structures shall be conducted during the non-roosting season from September 1 to October 31. Preconstruction surveys consisting of visual inspections of trees and the exterior and interior of structures by a qualified bat biologist shall be conducted no more than 30 days prior to the start of work. The biologist will survey for evidence of previous roosting or occupation of bats within suitable habitat. Suitable bat roosting habitat includes man-made structures, snags, rotten stumps, mature trees with broken limbs, trees with exfoliating bark, bole cavities or hollows, and dense foliage. If evidence of bat roosting is not detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated. However, if evidence of roosting is observed during preconstruction surveys, the bat biologist shall, if necessary, specify protective measures as discussed below. Consultation with CDFW may be required to determine appropriate protective measures.*

- c. *If tree removal, pruning, grubbing and demolition of structures is scheduled to occur during the hibernation season (i.e., November 1 through March 31), a preconstruction survey shall be performed by a qualified bat biologist. Emergence surveys are not effective at determining bat presence (due to suppressed flight and forage activities) during this period. Therefore, preconstruction surveys consisting of visual inspections of trees and the exterior and interior of structures shall be conducted no more than 30 days prior to the start of work. Suitable bat roosting habitat includes man-made structures, snags, rotten stumps, mature trees with broken limbs, trees with exfoliating bark, bole cavities or hollows, and dense foliage. If evidence of bat hibernation is not detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated.*
- d. *If evidence of bat hibernation or roosting is detected, the bat biologist shall specify protective measures. Potential protective measures that may be recommended by a qualified bat biologist include, but are not limited to establishing disturbance buffers around roosts and passive exclusion measures. The passive exclusion measures or buffer shall be determined by the type of bat observed, sensitivity of roost, type of potential disturbance, etc. Each buffer zone shall remain in place until the end of the hibernation season or until the bats leave on their own accord. The bat biologist shall confirm that bats have been excluded from the tree or building before work may commence.*
- e. *If tree removal, pruning, grubbing, and demolition of structures will occur during the maternity roosting period (i.e., April 1 through August 31), pre-construction emergence surveys shall be performed during this period by a qualified bat biologist. Suitable bat roost sites (e.g., large tree cavities, outbuilding perches) should be surveyed by way of evening emergence surveys and/or visual, internal and external inspections to determine presence/absence of bat maternity roosts. If no roost sites are detected, work may proceed without restriction if within 30 days of the survey; if work is delayed beyond 30 days, the survey shall be repeated.*
- f. *If a maternity roost of any special-status bat species is determined to be present, as evidenced by the presence of roosting individuals or significant guano accumulations detected during the roost assessment or during pre-construction surveys, demolition activities may not proceed and a qualified bat biologist shall specify protective measures (as discussed above) in conjunction with CDFW.*
- g. *The eviction and relocation of a verified maternity roost for any special-status bat species shall conform to the following requirements:*
  - i. *In consultation with CDFW, a qualified bat biologist shall design, construct and monitor a species-specific replacement roost and success criteria shall be established.*

- ii. *Baseline data shall be measured at the existing maternity roost. Baseline data that may be measured include, but are not limited to: size and configuration of roost, temperature, humidity, and solar exposure. These baseline data shall be used to inform the design of a species-specific replacement roost.*
- iii. *The replacement roost shall ideally be constructed on-site. If on-site construction is not feasible, the roost shall be constructed on nearby open space within suitable habitat.*
- iv. *Demolition of the maternity roost shall not resume until the replacement roost is constructed and sited.*
- v. *Long-term monitoring of any replacement roost shall be coordinated with CDFW. A successful replacement roost shall provide a similar range of abiotic conditions as the replaced roost. Baseline data collected from the roost to be replaced shall provide the range of abiotic conditions for long-term monitoring and criteria for success. If the success criteria are achieved corrective actions shall be outlined in the annual reports. All CDFW-approved corrective actions shall be implemented.*
- vi. *If an active roost is present, but determined not to be a maternity roost, the qualified bat biologist shall specify protective measures (as discussed above) in consultation with CDFW.*

**Impact Significance After Mitigation:** Less than significant since impacts to special-status bat species would be avoided with implementation of these mitigation measures.

**Impact 4.3-3: Project development could have a substantial adverse effect, either directly or through habitat modification, to the special-status species San Francisco dusky-footed woodrat. (Less than Significant with Mitigation)**

The presence of San Francisco dusky-footed woodrat was not confirmed during surveys conducted by WRA (2013). However, the subspecies is known from the project vicinity and there is abundant suitable habitat is present on-site. Site clearing activities (e.g., grading, building demolition, tree and shrub removal) could result in direct or indirect impacts to woodrats by causing the destruction or abandonment of occupied nests. Direct and indirect impacts to this special-status species would be considered potentially significant under *CEQA Guidelines*. However, with implementation of Mitigation Measure 4.3-3, Protection of San Francisco Dusky-footed Woodrat, this potential impact would be reduced to a less-than-significant level.

***Mitigation Measure 4.3-3, Protection of San Francisco Dusky-footed Woodrat:*** *In order to avoid impacts to San Francisco dusky-footed woodrat during project implementation, the measures outlined below shall be implemented. With the incorporation of the following measures, significant impacts on these species would be avoided:*

- a. *A qualified biologist shall perform a ground survey to locate and mark all woodrat nests in the proposed construction area, including structures. The survey shall be performed no less than 30 days prior to the initiation of ground disturbances. The Contractor shall walk the site to assist in determining which nests cannot be avoided. Nests to be avoided shall be fenced off with orange construction fencing and their locations marked on construction plans as being off limits to all activities.*
- b. *Any woodrat nest that cannot be avoided shall be manually disassembled by a qualified biologist, pending authorization from CDFW, to give any resident woodrats the opportunity to disperse to adjoining undisturbed habitat. Nest building materials shall be immediately removed off-site and disposed of to prevent woodrats from reassembling nests on-site unless otherwise directed by CDFW.*
- c. *To ensure woodrats do not rebuild nests within the construction area, a qualified biologist shall inspect the construction corridor no less than once per week. If new nests appear, they shall be disassembled and the building materials disposed of offsite. If there is a high degree of woodrat activity, more frequent monitoring shall be performed, as warranted.*
- d. *If a woodrat nest is discovered in structures during building demolition, construction work that will affect the nest shall be halted. A qualified biologist shall manually disassemble the nest, pending authorization from CDFW, to give resident woodrats the opportunity to disperse to adjoining undisturbed habitat. Nest materials shall be immediately removed off-site and disposed of to prevent woodrats from reassembling nests in buildings unless otherwise directed by CDFW. A qualified biologist shall survey the structure where the nest was discovered to confirm absence of woodrats dispersed from the dismantled nest. Halted demolition work shall continue when the qualified biologist has confirmed dispersal of woodrats from the structure to be demolished.*

**Impact Significance After Mitigation:** Less than significant since avoidance and dismantling of San Francisco dusky-footed woodrat nests and on-site monitoring avoid a direct take of the species.

**Impact 4.3-4: Project development would not substantially reduce the habitat of any wildlife species, cause any wildlife populations to drop below self-sustaining levels, threaten to eliminate a plant or animal community or substantially reduce the number or restrict the range of rare or endangered plant or animal species through the loss or fragmentation of habitats. (Less than Significant)**

A total of 64 special-status animal species have been recorded in the project region (Appendix C). Of these, 53 species are considered absent from or highly unlikely to occur on the site due to a lack of suitable habitat or habitat features or the site's remoteness from their known distribution. Based on the presence of suitable habitat and their known distribution in the project vicinity, a total of 11 special-status

species are considered to have a high or moderate potential to occur on-site. These include six mammals (San Francisco dusky-footed woodrat, Townsend's big-eared bat, pallid bat, long-eared myotis, Yuma myotis and hoary bat) and five birds (Cooper's hawk, oak titmouse, Nuttall's woodpecker, Allen's hummingbird and Lawrence's goldfinch).

These species may occur more frequently as regular foragers or may be resident to the site and if present, they are each more likely to be associated with mature trees either within the development footprint or the oak woodland. Based on the worst-case scenario, as many as 103 mature trees would be removed or significantly affected by project implementation, representing 21% of the trees inventoried on the subject property. The trees that would be impacted consist of isolated individuals or small clusters of trees within the existing landscaped or human-altered portions of the site. Abundant trees in comparable settings would be preserved, as would the greatest concentration of trees making up woodland habitat that is situated outside of the project's construction limits.

Considering the area of woodland habitat and the number of trees that would be preserved and the extent of similar habitat in the project vicinity available for wildlife, the loss or fragmentation of this habitat would be less than significant.

*Mitigation Measure 4.3-4: None required.*

#### IMPACTS ON SENSITIVE HABITATS

##### **Impact 4.3-5: Project implementation would not impact oak woodland habitat, a sensitive natural community identified in the General Plan. (Less than Significant)**

There are native oak woodlands on the western and northern margins of the site, and they are considered to be a sensitive native biological community as reflected in the above-listed General Plan policies. The conceptual building footprints, as shown on the Least Restrictive Development Area Plan (see Figure 4.1-2), would not overlap with the edge of the oak woodland. Therefore, no direct or indirect impacts on oak woodland would result.

*Mitigation Measure 4.3-5: None required.*

#### TREE REMOVAL IMPACTS

##### **Impact 4.3-6: Project implementation would result in the removal of or adverse impacts on as many as 103 Protected trees on the project site, but would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (Less Than Significant)**

Protected trees, as defined under the Los Gatos Tree Protection Ordinance (Division 2 of the Zoning Code), are defined in Section 4.3.2, above. As identified by the project arborists (Leone, 2013; Barrie D.

Coate and Associates, 2013; Arbor Resources, 2013), a total of 492 Protected trees are present on the property; 302 Protected trees occur within the boundaries where future development may occur (see Table 4.3-2). Project implementation could require the removal of or significant impacts on as many as 103 Protected trees (34% of total Protected trees within area where future development could occur or 21% of total Protected trees on-site), a potentially significant impact.

Of the 75 trees proposed for removal, approximately 16 of these trees would be removed as part of road development while the remainder could be removed as part of future lot development. The Town's arborist determined that two trees (#209 and 211) that could be removed as part of development of Lot 6 have a high suitability for preservation, and should be preserved as part of future development of this lot. These two trees are located on the edge of the conceptual footprint for this lot. There are 12 trees that the arborist recommends that they be removed immediately because they are hazardous (i.e. dead or so structurally defective that parts or its entirety could fail at any time onto existing high-value targets) and three of these are already proposed to be removed (part of the 75 trees identified above); resulting in a net addition of nine trees to be removed. There are 19 additional trees that are likely to be adversely affected by project implementation, and seven are considered to have a high suitability for preservation. In addition, during future lot development, there would be the potential for damage to the trees that are proposed to be retained.

The contractor/developer that demolishes the buildings and develops the roads/infrastructure as well as future lot owners will be required to comply with the Los Gatos Tree Protection Ordinance, which will include implementing the Town arborist's tree protection and replacement recommendations (see Appendix B). Compliance with this ordinance would reduce potential for the project to conflict with a tree protection ordinance to a less-than-significant level. Pursuant to the Tree Protection Ordinance and as shown in Table 4.3-4, Tree Replacement, replacement trees of an appropriate number, container size, and species shall be planted on-site. If the full number of trees cannot be feasibly planted on a given parcel or within the current property boundaries, replacement trees shall be planted elsewhere on public property or payment of an in lieu fee shall be made to the Town Forestry Fund for those not planted, pending review and approval by the Director of Parks and Public Works Department. The 16 trees removed during the initial demolition and road/infrastructure construction phases will be replaced per ordinance requirements, but replacement would occur when individual lots are eventually developed. Replacement requirements will be shared among the 17 lots and required during the A&S review process for each lot.

*Mitigation Measure 4.3-6: None required.*

#### **IMPACTS ON WILDLIFE**

**Impact 4.3-7: Project development would not result in a substantial reduction of habitat for fish or wildlife species. (Less than Significant)**

The property has no fish habitat. The net effect of project implementation on the landscape would involve the subdividing of primarily developed lands with mature landscaping to homes, roads and landscaping. The most notable change would result from the removal of some mature native and non-native trees. The loss of these trees would have an effect on wildlife species that currently utilize or could utilize the site for foraging, breeding, resting and movements. It is expected that most species presently utilizing these habitat features on-site do so as part of their normal daily or seasonal movements associated with foraging, mating, and caring for young. Wildlife usage of the site and the adjacent oak woodland, which would not be altered as a result of project implementation, is likely to continue after development. Human activities and disturbances affecting wildlife are not expected to represent a significant increase over the existing conditions of the site.

As mitigation for impacts to protected trees, as required under the Town's Tree Protection Ordinance, planting of replacement trees will be required. The loss of mature tree canopies, even when replaced by tree plantings, represents a temporal impact to wildlife habitats. However, the large number of mature trees left on-site is expected to provide abundant suitable habitat for wildlife disrupted by these alterations.

Impacts such as these on common and widespread wildlife species are considered less than significant.

*Mitigation Measure 4.3-7: None required.*

**Impact 4.3-8: Project development would not substantially interfere with the movement of any native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. (Less than Significant)**

The project site currently supports only anthropogenic habitats, that is, habitats that were created and maintained as a result of human activities. While landscaping and structures may provide refuge, foraging, and even breeding opportunities for wildlife, the species most likely to have any affinity for such features are generally those that have wide tolerances for human activities and disturbances. The availability of native oak woodland habitat both on-site and in the immediate project vicinity the site increases the likelihood of regular and incidental movements of wildlife species from the corridor onto the site.

Wildlife movements generally can be divided into three major behavioral categories:

- a. Movements within a home range or territory;
- b. Movements during migration; and
- c. Movements during dispersal.

Knowledge of the site, its habitats, and the ecology of the species occurring on-site permit sufficient predictions about the types of movements occurring in the region, and whether or not proposed development would constitute a significant impact on animal movements.

Although the project site is situated within 500 to 600 feet of Los Gatos Creek and an unnamed tributary, the site is unlikely to be part of a significant wildlife movement corridor between Los Gatos Creek and other significant wildlife habitats. Therefore, any movement of wildlife from the creek onto the site are likely currently restricted to incidental movements related to foraging, ostensibly by common and widespread species that associate humans with food sources (e.g., rubbish), or that prey on such animals.

Project implementation would not have a significant effect on wildlife movements. Construction activities associated with project implementation would also not have a significant effect on wildlife movements. Project development, therefore, is expected to have a less-than-significant impact on corridor-type movements of native wildlife. The project site does not have any native wildlife nursery site and therefore the property would not impede the use of such sites.

**Mitigation Measure 4.3-8:** None required.

#### REFERENCES – BIOLOGICAL RESOURCES

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[http://www.fws.gov/sacramento/ES\\_Species/Lists/es\\_species\\_lists-overview.htm](http://www.fws.gov/sacramento/ES_Species/Lists/es_species_lists-overview.htm). (Included in Appendix C)

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## 4.4 GEOLOGY, SOILS, AND SEISMICITY

This section presents the results of a geologic and geotechnical hazards analysis by Cornerstone Earth Group as well as published geologic information, which both serve as the basis for the evaluation of geologic and seismic impacts associated with implementation of the proposed project. Cornerstone Earth Group (Cornerstone) conducted a geologic and geotechnical hazards analysis in 2013 to evaluate existing subsurface conditions at the project site and identify geologic constraints related to construction of the proposed project (Cornerstone, 2013). The analysis included a reconnaissance level site visit and relevant literature and air photo reviews by an engineering geologist. Because this was a reconnaissance-level analysis, no soil borings were necessary or installed for the collection of soil samples. The geologic and geotechnical hazards evaluation was peer reviewed by the Town's consulting geotechnical engineer, AMEC Environment & Infrastructure, in May 2013. The peer review concurred with the conclusion of the geologic and geotechnical hazards evaluation that the project site is suitable for the proposed development provided that the recommendations of subsequent design-level geotechnical reports are implemented (AMEC, 2013).

The Cornerstone report and AMEC's peer review are included in **Appendix D** of this EIR. Copies of these studies are also available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>1</sup>

### 4.4.1 ENVIRONMENTAL SETTING

#### GEOLOGY

**Regional Physiography.** California has been divided into 12 geomorphic provinces that are topographic-geologic groupings of convenience based primarily on landforms and geologic history (Norris and Webb, 1976). The proposed project is located in the Coast Ranges province, which extends approximately 600 miles, from the Santa Ynez River in Santa Barbara County to the Oregon border in northern Humboldt County. The province consists of northwest-trending mountain ranges, broad basins, and elongated valleys generally parallel to the San Andreas Fault. In the Coast Ranges, older consolidated rocks are characteristically exposed in the mountains but are buried beneath younger, unconsolidated alluvial fan and fluvial sediments in the valleys and lowlands. In the coastal lowlands, these younger sediments commonly interfinger with marine deposits.

The Coast Ranges are generally divided in two sub-provinces, north and south of San Francisco Bay. The proposed project is located in the southern Coast Ranges sub-province. The major geographic features in this sub-province include: the Diablo Range, Santa Cruz Mountains, San Francisco Peninsula, and San

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<sup>1</sup> [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR)

Francisco Bay. Significant physiographic features include San Francisco Bay and the broad alluvial fans (or flatlands) that were formed between the mountain ranges and the bay. The proposed project site is located on the northeast flank of the Santa Cruz Mountains (Cornerstone, 2013), near the southwestern margin of the Santa Clara Valley which is an elongate northwest-trending extension of the San Francisco Bay structural trough bounded on the east by the Diablo Range and on the west by the Santa Cruz Mountains.

**Site Geology.** Located on a northerly-trending spur ridge, the site elevations range from 550 feet at the western property boundary to 608 feet at the highest point (Cornerstone, 2013). The spine of the ridge comprises the majority of the project site, and generally slopes gently in a variety of directions. Slopes along the east and north boundaries of the site range from moderate (30%) to steep (50%).

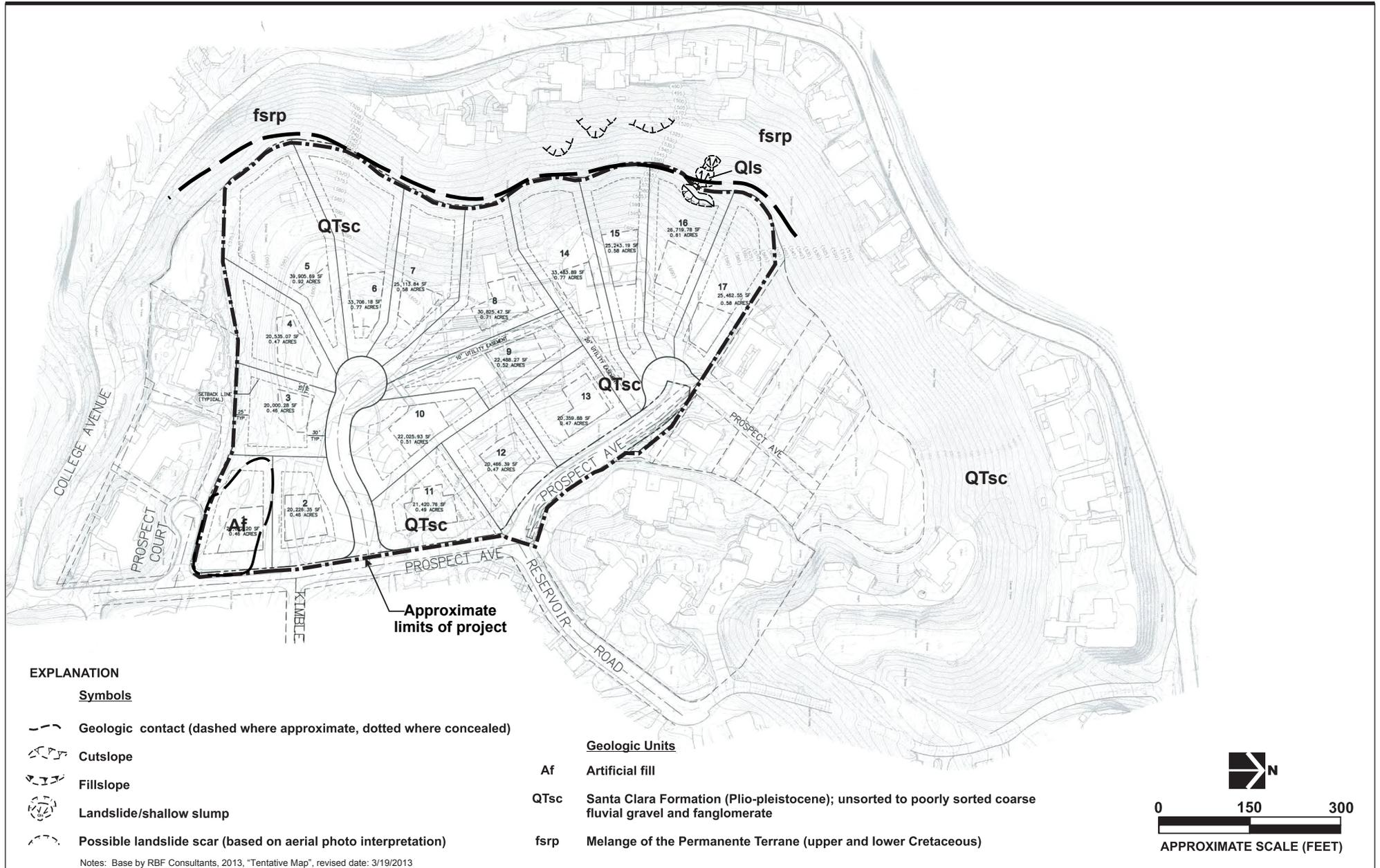
Non-engineered fill materials are present in portions of the site, primarily those areas associated with the earliest developed areas as well as around residences and other outlier buildings around the west, northwest, and north perimeters of the site. The fills may also be present at retaining walls, in depressed areas where older structures were demolished, and along a former flume that paralleled the north and west property boundaries. There is some evidence of debris within the fill materials and some of the fills have been over steepened, without support at their base.

Santa Clara Formation consisting of semi-consolidated clayey sand with gravel is present beneath the fill and at the surface in areas that have not been filled. Permanente Terrane Mélange of the Franciscan Complex is exposed in an outcrop to the west of the project site. The contact between the Franciscan mélange and the Santa Clara Formation, shown on **Figure 4.4-1**, roughly parallels the western property boundary and only slightly extends into the setback areas of Lots 15 and 16. Within the project area, the mélange is comprised of greywacke sandstone with some cementation, no serpentine was observed within the mélange.

The geologic and geotechnical hazards evaluation reports that the project site is not in an area with a laterally extensive groundwater table. Perched groundwater conditions can occur seasonally, but no indications of springs were noted during the site reconnaissance.

## **GEOLOGIC HAZARDS**

**Slope Failure.** Slope failures, commonly referred to as landslides, include many phenomena that involve the downslope displacement and movement of material, triggered either by static (i.e., gravity) or dynamic (i.e., earthquake) forces. Exposed rock slopes undergo rockfalls, rockslides, or rock avalanches, while soil slopes experience soil slumps, rapid debris flows, and deep-seated rotational slides. Slope stability can depend on several complex variables, including the geology, structure, topography, slope geometry, and amount of groundwater present, as well as external processes such as climate and human activity.



The entire project site and surrounding vicinity are in a potential landslide zone identified by Santa Clara County (Cornerstone, 2013). A review of aerial photographs conducted as part of the geologic and geotechnical hazards evaluation identified possible evidence of sliding on the steep slope located off-site on private property, just west of the property line - west of the Seraphine and Regional Office Buildings (Cornerstone, 2013). The observed indications of landsliding include an anomalous opening in the forest canopy and the absence of vegetation relative to the surrounding slope. Anomalous stepped topography was also observed approximately 100 feet northwest of the Seraphine and Regional Office Buildings which is associated with some past grading to create a building pad. The fill and colluvium in this area appears to have experienced some accelerated downhill creep or minor sloughing. The aerial photograph review did not identify any other evidence suggesting that landsliding has occurred at the project site.

**Soils.** Problematic soils, such as those that are expansive, can damage buildings and buried utilities, and also increase maintenance requirements. Expansive soils are characterized by their ability to undergo significant volume change (i.e., to shrink and swell) as a result of variations in moisture content. Changes in soil moisture can result from rainfall, landscape irrigation, utility leakage, roof drainage, and/or perched groundwater.<sup>2</sup> Expansive soils are typically very fine-grained and have a high to very high percentage of clay. Expansion and contraction of expansive soils in response to changes in moisture content can lead to differential and cyclical movements that can cause damage and/or distress to structures and equipment.

Mapping presented in the Town of Los Gatos General Plan Update map folio shows the level to gently inclined portions of the site as being located within areas of moderate to high shrink-swell potential and the steeper portions of the site as being located within areas of a moderate shrink-swell potential (Cornerstone, 2013). The geologic and geotechnical hazards evaluation states that based on experience in the project vicinity, the plasticity index of the Santa Clara Formation typically ranges from about 18 to 30, indicating a moderate to high expansion potential in response to wetting and drying cycles.

#### **REGIONAL FAULTING AND SEISMIC HAZARDS**

**Seismicity.** The San Francisco Bay Area is situated near the boundary between two major tectonic plates, the Pacific Plate to the southwest and the North American Plate to the northeast. Since the Miocene epoch (approximately 23 million years ago), about 200 miles of right-lateral movement<sup>3</sup> has occurred along the San Andreas Fault Zone to accommodate the relative movement between these two plates. The movement between the Pacific Plate and the North American Plate generally occurs across a 50-mile zone extending from the San Gregorio fault in the southwest to the Great Valley Thrust Belt to the northeast. In addition to the right-lateral slip movement between the two tectonic plates, portions of the North American Plate

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<sup>2</sup> Perched groundwater is a local saturated zone above the water table that typically exists above an impervious layer (such as clay) of limited extent.

<sup>3</sup> The Pacific Plate and the North American Plate are moving past each other along the San Andreas Fault Zone; “right-lateral movement” means that they are moving to the right relative to each other.

have moved toward each other during the last 3.5 million years, resulting in compressional forces at the latitude of San Francisco Bay (Fenton and Hitchcock, 2001).

The San Andreas, San Gregorio, Hayward, Rodgers Creek, Calaveras, and Greenville strike-slip faults<sup>4</sup> are active faults of the San Andreas system identified by the USGS that predominantly accommodate lateral movement between the North American and Pacific tectonic plates. Active blind- and reverse-thrust faults<sup>5</sup> in the San Francisco Bay region that accommodate compressional movement include the Monte Vista–Shannon and Mount Diablo faults. The USGS estimates that there is a 63% probability of a strong earthquake (magnitude [Mw] 6.7 or higher) occurring on one of these regional faults in the 30-year period between 2007 and 2036, with a 16% chance of such an earthquake within the San Andreas fault system located 2.5 miles from the proposed project site (USGS, 2008). The other faults within approximately 15 miles of the project area include the Monte Vista-Shannon, Sargent-Berrocal, and Hayward faults (Cornerstone, 2013).

**Fault Rupture.** Surface rupture occurs when movement on a fault deep within the earth breaks through to the surface. Surface ruptures associated with the 1906 San Francisco earthquake extended for more than 260 miles, with displacements of up to 21 feet. However, not all earthquakes result in surface rupture. The Loma Prieta earthquake of 1989 caused major damage in the San Francisco Bay Area, but the fault movement did not break through to the ground surface.

Fault rupture almost always follows preexisting faults, which are zones of relative weakness in the earth's crust. Rupture may occur suddenly during an earthquake or slowly in the form of fault creep. Sudden displacements are more damaging to structures because they can displace structures and are accompanied by shaking.

The project site is not located within a State-designated Alquist-Priolo Earthquake Fault Zone, or a Santa Clara County Fault Hazard Zone (Cornerstone, 2013). However, the project site is located near a pre-quaternary fault that follows College Avenue, just off site, and may extend slightly onto the northern end of the project site. Although this fault is not considered active, fault rupture zone mapping for the Town considers sites within 400 to 500 feet of any mapped surface fault trace to have a moderate potential for fault rupture. Therefore, the site is characterized with a moderate potential for fault rupture as shown on the Town of Los Gatos Fault Rupture Hazard Zone Map. However, there is no indication of coseismic ground deformation or damage from the 1989 Loma Prieta earthquake at the project site. The nearest ground damage from that earthquake was observed approximately 1,200 feet southeast of the site where two gas lines were damaged and approximately 1,100 feet to the northwest where there was a surface break in concrete pavement. Because there is no known surface expression of a fault trace within the

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<sup>4</sup> Strike-slip faults involve the two blocks moving parallel to each other without a vertical component of movement.

<sup>5</sup> A reverse fault is one with predominantly vertical movement in which the upper block moves upward in relation to the lower block; a thrust fault is a low-angle reverse fault. Blind-thrust faults are low-angled subterranean faults that have no surface expression.

project site and there is no indication of coseismic ground deformations or damage from the Loma Prieta earthquake, the potential for fault rupture at the project site is considered low.

**Groundshaking.** The intensity of seismic shaking, or strong ground motion, during an earthquake affecting the project site would depend on the distance to the epicenter of the earthquake, the magnitude of the earthquake, and the geologic conditions underlying and surrounding the area. Earthquakes occurring on faults closest to the project site would have the potential to generate the largest ground motions.

The intensity of earthquake-induced ground motions and the potential forces that could affect structures within the project area can be described in terms of “peak ground acceleration,” which is represented as a fraction of the acceleration of gravity (g).<sup>6</sup> The geologic and geotechnical hazards evaluation for the project states that based on the “Seismic Shaking Hazards Map” contained within the town of Los Gatos General Plan Update folio, the site is located within an area that would have a peak ground acceleration of 0.8 g with a 10% probability of exceedance in 50 years. **Table 4.4-1** shows the relation of average peak ground accelerations to shaking intensities based on the modified Mercalli intensity scale. As shown, the specified ground acceleration correlates to a shaking intensity value of IX (violent). At this intensity, damage could be considerable in specially designed structures. Well-designed frame structures could be thrown out of plumb. Substantial buildings could experience partial collapse. Buildings could be shifted off of foundations, and underground pipes could be broken.

The Los Gatos “Seismic Shaking Hazards Map” also shows that the majority of the site is located in an area that would have a low potential for topographic amplification of seismic waves (Cornerstone, 2013). However, the steep slopes near the northwest property boundary fall within the moderate potential zone.

**Liquefaction.** Liquefaction is a phenomenon in which saturated granular sediments near the ground surface temporarily lose their shear strength during periods of strong groundshaking such as during an earthquake. The susceptibility of a site to liquefaction is a function of the depth, density, and water content of the granular sediments and the magnitude of earthquakes likely to affect the site. Saturated, unconsolidated silts, sands, silty sands, and gravels within 50 feet of the ground surface are most susceptible to liquefaction. Liquefaction-related phenomena include vertical settlement from densification, lateral spreading, ground oscillation, flow failures, loss of bearing strength, subsidence, and buoyancy effects.

The proposed project site is not located within a liquefaction hazard zone identified by the California Geological Survey or the County of Santa Clara (Cornerstone, 2013). Based on the geologic and geotechnical hazards evaluation, the Santa Clara Formation which underlies the site is not comprised of materials susceptible to liquefaction and the potential for liquefaction at the site is low.

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<sup>6</sup> The acceleration of gravity (g) = 980 centimeters per second squared. 1.0 g of acceleration is a rate of increase in speed equivalent to a car traveling 328 feet from rest in 4.5 seconds.

**TABLE 4.4-1**  
**MODIFIED MERCALLI INTENSITY SCALE**

Intensity Value	Intensity Description	Average Peak Ground Acceleration <sup>a</sup>
I	Not felt except by a very few persons under especially favorable circumstances.	< 0.0017 g
II	Felt only by a few persons at rest, especially on upper floors on buildings. Delicately suspended objects may swing.	0.0017-0.014 g
III	Felt noticeably indoors, especially on upper floors of buildings, but many people do not recognize it as an earthquake. Standing motor cars may rock slightly, vibration similar to a passing truck. Duration estimated.	0.0017-0.014 g
IV	During the day felt indoors by many, outdoors by few. At night, some awakened. Dishes, windows, doors disturbed; walls make cracking sound. Sensation like heavy truck striking building. Standing motor cars rocked noticeably.	0.014–0.039g
V (Light)	Felt by nearly everyone, many awakened. Some dishes and windows broken; a few instances of cracked plaster; unstable objects overturned. Disturbances of trees, poles may be noticed. Pendulum clocks may stop.	0.035 – 0.092g
VI (Moderate)	Felt by all, many frightened and run outdoors. Some heavy furniture moved; fallen plaster or damaged chimneys. Damage slight.	0.092 – 0.18 g
VII (Strong)	Everybody runs outdoors. Damage negligible in buildings of good design and construction; slight to moderate in well-built ordinary structures; considerable in poorly built or badly designed structures; some chimneys broken. Noticed by persons driving motor cars.	0.18 – 0.34 g
VIII (Very Strong)	Damage slight in specially designed structures; considerable in ordinary substantial buildings, with partial collapse; great in poorly built structures. Panel walls thrown out of frame structures. Fall of chimneys, factory stacks, columns, monuments, walls. Heavy furniture overturned. Sand and mud ejected in small amounts. Changes in well water. Persons driving motor cars disturbed.	0.34 – 0.65 g
IX (Violent)	Damage considerable in specially designed structures; well-designed frame structures thrown out of plumb; great in substantial buildings, with partial collapse. Buildings shifted off foundations. Ground cracked conspicuously. Underground pipes broken.	0.65 – 1.24 g
X (Very Violent)	Some well-built wooden structures destroyed; most masonry and frame structures destroyed with foundations; ground badly cracked. Rails bent. Landslides considerable from riverbanks and steep slopes. Shifted sand and mud. Water splashed (slopped) over banks.	> 1.24 g
XI (Very Violent)	Few, if any, (masonry) structures remain standing. Bridges destroyed. Broad fissures in ground. Underground pipelines completely out of service. Earth slumps and land slips in soft ground. Rails bent greatly.	> 1.24 g
XII (Very Violent)	Damage total. Practically all works of construction are damaged greatly or destroyed. Waves seen on ground surface. Lines of sight and level are distorted. Objects are thrown upward into the air.	> 1.24 g

NOTE:

<sup>a</sup> Value is expressed as a fraction of the acceleration of gravity.

SOURCE: ABAG (2003)

**Lateral Spreading.** Of the liquefaction hazards, lateral spreading generally causes the most damage. Lateral spreading involves large blocks of intact, non-liquefied soil moving downslope on a liquefied substrate of large aerial extent (Youd and Perkins, 1978). The mass moves toward an unconfined area, such as a descending slope or stream-cut bluff, and can occur on slope gradients as gentle as 1 degree. Typically, lateral spreading is associated with liquefaction of one or more subsurface layers near the bottom of an exposed slope. The geologic and geotechnical hazards evaluation concludes that the potential for lateral spreading at the project site is low because there are no open faces within 200 feet of the project site where lateral spreading could occur, and as stated above, the potential for liquefaction is low (Cornerstone, 2013).

**Earthquake-Induced Settlement.** Settlement of the ground surface can be accelerated and accentuated by earthquakes. During an earthquake, settlement can occur as a result of the relatively rapid rearrangement, compaction, and settling of subsurface materials (particularly loose, non-compacted, and variable sandy sediments). Settlement can occur both uniformly and differentially (i.e., where adjoining areas settle at different rates). Areas are susceptible to differential settlement if underlain by compressible sediments, such as poorly engineered artificial fill or bay mud. Cornerstone (2013) concludes that the potential for substantial seismic settlement of the Santa Clara Formation is low because the clays of the formation are stiff to very stiff and the sands are medium dense to dense.

**Seismic Slope Instability.** Earthquake motions can also induce substantial stresses in slopes, causing earthquake-induced landslides or ground cracking when the slope fails. Earthquake-induced landslides can occur in areas with steep slopes that are susceptible to strong ground motion during an earthquake. The 1989 Loma Prieta earthquake triggered thousands of landslides over an area of 770 square miles. The project site is not located in a zone of potential earthquake-induced landsliding identified by the California Geological Survey, although there is an area of mapped earthquake-induced landslide potential mapped just northeast of the northeast property boundary (Cornerstone, 2013).

## 4.4.2 REGULATORY AND PLANNING FRAMEWORK

### STATE AND FEDERAL

**Alquist-Priolo Earthquake Fault Zoning Act.** The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to mitigate the hazard of surface faulting to structures for human occupancy. In accordance with this act, the state geologist established regulatory zones, called “earthquake fault zones,” around the surface traces of active faults and has published maps showing these zones. Within these zones, buildings for human occupancy cannot be constructed across the surface trace of active faults. Each earthquake fault zone extends approximately 200 to 500 feet on either side of the mapped fault trace because many active faults are complex and consist of more than one branch that may experience ground surface rupture.

Title 14 of the California Code of Regulations (CCR), Section 3601(e), defines buildings intended for human occupancy as those that would be inhabited for more than 2,000 hours per year. Although the structures that would be constructed under the proposed project meet this definition, the proposed project does not cross any Alquist-Priolo Earthquake Fault Zones. Therefore the project would not be subject to the requirements of the Alquist-Priolo Earthquake Fault Zoning Act.

**Seismic Hazards Mapping Act.** The Seismic Hazards Mapping Act was passed in 1990 following the Loma Prieta earthquake to reduce threats to public health and safety and to minimize property damage caused by earthquakes. The Act directs the California Department of Conservation to identify and map areas prone to the earthquake hazards of liquefaction, earthquake-induced landslides, and amplified groundshaking. The act requires site-specific geotechnical investigations to identify potential seismic hazards and formulate mitigation measures before permitting most developments designed for human occupancy within the Zones of Required Investigation.

Under the Seismic Hazards Mapping Act, areas of potential liquefaction and earthquake-induced landslides are mapped on a broad scale based on regional information. The act requires that site-specific geotechnical investigations be performed prior to permitting most urban development projects within the identified hazard zones. The project site is included on the Los Gatos Quadrangle of the Seismic Hazard Zone Maps (CGS, 2002) and is not located within a liquefaction or earthquake-induced landslide hazard zone. Therefore, the Seismic Hazards Mapping Act does not apply to the proposed project.

**California Building Code.** The California Building Code (CBC), which is codified in CCR Title 24, Part 2, was promulgated to safeguard the public health, safety, and general welfare by establishing minimum standards related to structural strength, egress facilities, and general building stability. The purpose of the CBC is to regulate and control the design, construction, quality of materials, use/occupancy, location, and maintenance of all building and structures within its jurisdiction. Title 24 is administered by the California Building Standards Commission, which, by law, is responsible for coordinating all building standards. Under state law, all building standards must be centralized in Title 24 or they are not enforceable.

The CBC is based on the International Building Code. The 2013 CBC is based on the 2012 International Building Code published by the International Code Conference. In addition, the CBC contains necessary California amendments that are based on the American Society of Civil Engineers (ASCE) Minimum Design Standards 7-05. ASCE 7-05 provides requirements for general structural design and includes means for determining earthquake loads as well as other loads (flood, snow, wind, etc.) for inclusion in building codes. In accordance with these standards, the CBC design provisions prescribe minimum lateral forces to withstand groundshaking. Seismic design provisions of building code generally prescribe minimum lateral forces applied statically to the structure, combined with the gravity forces of dead and live loads. The prescribed lateral forces are generally considered to be substantially smaller than the actual peak forces that would be associated with a major earthquake. Consequently structures should be able to: (1) resist minor earthquakes without damage, (2) resist moderate earthquakes without structural

damage but with some nonstructural damage, and (3) resist major earthquakes without collapse, but with some structural as well as nonstructural damage. Conformance to the current building code recommendations does not constitute any kind of guarantee that significant structural damage would not occur in the event of a maximum magnitude earthquake. However, it is reasonable to expect that a well-designed and well-constructed structure will not collapse or cause loss of life in a major earthquake.

The earthquake design requirements take into account the occupancy category of the structure, site class, soil classifications, and various seismic coefficients, all of which are used to determine a Seismic Design Category (SDC) for a project. The SDC is a classification system that combines the occupancy categories with the level of expected ground motions at the site and ranges from SDC A (very small seismic vulnerability) to SDC E/F (very high seismic vulnerability and near a major fault). Design specifications are then determined according to the SDC. The provisions of the CBC apply to the construction, alteration, movement, replacement, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout California.

## LOCAL

**Los Gatos Grading, Erosion, and Sediment Control Requirements.** The Town of Los Gatos requirements related to grading, erosion, and sediment control are specified in Chapter 12 of the Town of Los Gatos Municipal Code. This chapter specifies that the Town Engineer can require a grading permit for any grading that could result in a discharge into or connection to a watercourse, and work related to land-disturbing or landfilling activity greater than 50 cubic yards, slope greater than ten(10) percent, four thousand (4,000) square feet of impervious area created. The application for a permit must include a site map and grading plan, drainage plan as well as an erosion and sediment control plan. An interim erosion and sediment control plan is required if construction is started before October 1<sup>st</sup>, and the final erosion and sediment controls are not in place. Interim erosion control measures can include methods such as silt fences, fiber rolls, erosion control blankets, seeding, filter berms, check dams, and retention basins. Further, excavation, grading, and drainage activities must meet the design standards specified in Chapter 12. The Town would not issue a grading permit until the site map, grading plan, and interim and final erosion and sediment control plans are approved. All grading must be conducted in a manner that the levels of dirt, rock, debris, and other materials are not discharged to a water body in excess of natural levels and shall be constructed or protected so that they do not endanger life and property.

**Los Gatos General Plan.** Construction and operation of the project are subject to policies and regulations contained within the Town of Los Gatos General Plan, which includes policies for the avoidance of geologic hazards and/or the protection of unique geologic features (see Section 4.11, Cultural Resources, for discussion of paleontological resources relevant to the project). The goals, policies, and implementation measures in the General Plan for geology and soils applicable to the proposed project are provided below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with conflicts with

policies designed to protect the environment. Project consistency with those guidelines is discussed in the following project consistency analysis table.

### General Plan Policies

### Project Consistency Analysis

#### *Environment and Sustainability Element*

*ENV-2.1: All developments in areas subject to soil erosion and slippage shall furnish effective erosion control plans to minimize soil erosion. The erosion control plans shall be implemented prior to construction operations and maintained throughout the construction process.*

As a condition of approval, the Town would require the project applicant to prepare an erosion control plan and a Stormwater Pollution Prevention Plan would also be required in accordance with the Construction General Stormwater Permit as further discussed in Impact 4.4-2. Implementation of these plans prior to and during the construction process would ensure that erosion hazards at the site would be reduced to less than significant.

*ENV-2.2: Construction plans shall be reviewed to determine the adequacy of erosion control plans during and after construction.*

As indicated under Impact 4.4-2, the erosion control plan would be reviewed and approved by the Town Engineer prior to issuance of the grading permit for the project.

*ENV-2.3: Require grading permits to ensure that the grading of slopes and sites proposed for development will be minimized.*

As indicated under Impact 4.4-2, the project applicant would be required to obtain a grading permit for the project.

#### *Safety Element, Geologic and Seismic Hazards*

*Goal SAF-1 To minimize exposure to geologic hazards, including slope instability, subsidence, and expansive soils, and to seismic hazards, including groundshaking, fault rupture, liquefaction, and landslides.*

A geologic and geotechnical hazards evaluation was conducted for the proposed project by Cornerstone in 2013 and peer reviewed by the Town's geotechnical consultant (AMEC). Mitigation Measure 4.4-1 would require the project applicant to comply with Cornerstone's recommendations which require completion of a design-level investigation and implementation of the recommendations. This would reduce project risks related to identified geologic and seismic hazards to a less-than-significant level.

*SAF-1.1: Require reliable evaluations of the existing geologic conditions of sites proposed for development where conditions indicate the possibility of weak supporting soils or geologic structures.*

*SAF-1.2: Restrict new development and redevelopment based on the levels of acceptable risk and potential severity of geologic hazards.*

As discussed in the Setting and Impact 4.4-1, there are no active faults that cross the project site. Therefore, the potential for ground rupture/deformation is low. Further, the site is not located in a zone of potential liquefaction identified by the California Geological Survey or Santa Clara County, and the geologic materials beneath the site are not susceptible to liquefaction or other seismic-related ground failures. Therefore, the potential for liquefaction is low. Prior to the issuance of grading permit or building permit, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologists, to the Town of Los Gatos, for review and approval.

*SAF-1.6: Require geological investigations for any development or project as mandated by the State or deemed warranted by the Town.*

*SAF-1.8: Require preparation of a report from an engineering geologist and/or geotechnical engineer that discusses the geologic, seismic and geotechnical engineering conditions and potential hazards for developments in hazard zones mapped by the State or identified by the Town.*

As a condition of approval, the project applicant would be required to prepare an erosion control plan for the Town of Los Gatos and a Stormwater Pollution Prevention Plan in accordance with the Construction General Stormwater Permit as discussed in Impact 4.4-2.

*SAF-1.9: Enforce the California Building Code seismic safety restrictions. Require fault investigations for structures for human habitation and all critical facilities. Investigation may include field investigations. Reports shall include appropriate design measures to mitigate potential fault ground rupture/deformation to acceptable*

Consistent with the California Building Code, the Town

### General Plan Policies

*levels, and shall be reviewed by the Town.*

*SAF-1.10 Require geologic and geotechnical reports and Town review during the development review process for projects with significant grading, potential erosion and sedimentation hazards.*

*SAF-1.11: Require geologic and geotechnical reports to specify construction methods to protect the proposed project, as well as existing residences in the vicinity, from identified hazards.*

### Project Consistency Analysis

required a geological and geotechnical reports during the environmental review process and identified construction methods to protect the proposed project as well as future residences in the vicinity from potential hazards.

## HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES (HDSG)

With respect to projects involving land subdivisions, the HDSG contains the following development standard and guideline related to lot configuration and building locations:

### Hillside Development Standards and Guidelines

*VIII. Subdivision and Planned Development Projects*

*C. Least Restrictive Development Area (LRDA)*

*E. Development Standards and Guidelines*

*1. Site Preparation – Standards:*

*a. Grading shall be kept to a minimum and shall be performed in a way that respects all significant natural features and visually blends with adjacent natural areas.*

*b. The existing natural grade as well as the proposed final grade shall be shown on all elevations submitted with plans.*

*c. Graded areas shall appear as smooth flowing contours of varying gradients, preferable with slopes of 2:1 to 5:1. Sharp cuts and fills and long linear slopes that have uniform grade should be avoided.*

*1. Site Preparation – Guidelines:*

*a. Grading should be avoided in areas where the slope is greater than 25 percent.*

*b. Pad and terrace grading should be avoided to the maximum extent possible. However, if these techniques are used, the pad configuration should be softened with variable, undulating slopes created to give a more natural appearance (i.e. contour grading techniques – see Chapter III section A).*

### Project Consistency Analysis

HDSG grading standards and guidelines relating to maintaining existing natural grades would not apply to the proposed project since the site is already developed and level building pads were already created to accommodate existing development. The area proposed for development (building footprints, roads, and infrastructure) would be located in areas already developed with buildings, pavement, decking, infrastructure, and landscaped gardens. Since the site has already been developed or planted, building footprints are located on relatively level areas, which would minimize grading requirements. The proposed layout would not disturb slopes of 30% or more or oak woodland habitat located along the western and northern margins of the site.

Initial grading for proposed driveways and building pads would be completed sometime after demolition has been completed and roads are constructed (timing has not yet been defined). Conceptual grading for the site improvements and building pad elevations for the proposed structures indicate that road construction would include construction of approximately 100 to 150 linear feet of retaining walls at the edge of both cul-de-sacs on Lots 7, 16, and 17 and approximately 7,900 cy of cut, 5,000 cy of fill and 2,000 cy of export. These walls would be approximately 4 feet high (see Figure 3-4 for conceptual retaining wall locations). Finished grades (post-demolition) would be defined and reviewed by the Town Engineering Division of the Parks and Public Works Department, prior to granting of a demolition and grading permit. During the A&S review process, conformance of proposed grading with HDSG

**Hillside Development Standards and Guidelines****Project Consistency Analysis**

measures will be assessed by Town planning staff. Any additional retaining walls proposed as part of individual home and driveway development would be evaluated for consistency with the HDSG during A&S review for development of individual lots.

**4.4.3 POTENTIAL IMPACTS AND MITIGATION MEASURES****SIGNIFICANCE CRITERIA**

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, the proposed project would result in a significant impact if it would:

- Expose people or structures to substantial adverse effects, including the risk of loss, injury, or death involving: rupture of a known earthquake fault, as delineated 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; strong seismic ground shaking; seismic-related ground failure, including liquefaction; and landslides;
- Result in substantial soil erosion or the loss of topsoil;
- Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse;
- Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property; or
- 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.

The geologic and geotechnical hazards evaluation conducted for the proposed project assesses the geologic and soil conditions on the project site and provides an assessment of the potential geologic and seismic risks associated with project implementation. The impact assessment uses the results of the investigation as the basis for evaluating potential geologic and seismic effects of the project and presents mitigation measures to reduce significant or potentially significant impacts to a less-than significant level.

Based on project characteristics and the geology of the project site, no impacts are anticipated with respect to the following topics:

- *Rupture of a known earthquake fault, as delineated 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.* As discussed in the Setting, the site is not located in an Alquist-Priolo Earthquake Fault Zone or a fault hazard zone identified by the County of Santa Clara, and no

known active faults cross the project site. Therefore the potential for fault rupture is low and this impact is not discussed further.

- *Seismically-induced landslides.* As discussed in the Setting, the project site is not located in a zone of potential earthquake-induced landsliding identified by the California Geological Survey. Therefore, there would be a low potential for seismically-induced landslides. Further as discussed in Impact 4.4-3, Mitigation Measure 4.4-1 would require that the design-level geotechnical investigation for each residence or group of residences address slope stability under static and seismic conditions and implementation of any mitigation identified to address slope instability. Therefore, this impact is not discussed further.
- *Soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems.* The proposed project would be served by the West Valley Sanitation District sanitary sewer, and would not require the use of septic tanks or alternative waste disposal systems. Therefore, there would be no impact related to this topic.

## METHODOLOGY

The analysis below is based on the results of the 2013 geologic and geotechnical hazards analysis performed by Cornerstone (Cornerstone, 2013), and peer reviewed by AMEC (AMEC, 2013).

### **Impact 4.4-1: The proposed project could result in exposure of people and structures to potential adverse effects, including risk of loss, injury, or death involving strong ground shaking or landslides. (Less Than Significant With Mitigation)**

Ground shaking is the cause of most damage during earthquakes. The degree of shaking that would be expected at a particular site is dependent on the distance from the earthquake source, the magnitude of the earthquake, and the type, thickness, and condition of the geologic materials (bedrock, sediment, soil, fill). As discussed in the Setting, the project site could experience peak ground accelerations of 0.8g in the event of a major earthquake on one of the regional faults, and this correlates with a shaking intensity value of IX (violent) in accordance with the modified Mercalli intensity.

While applicants for a building permit are required to determine the appropriate seismic design criteria for a proposed structure in accordance with the latest adopted CBC, impacts related to ground shaking are considered significant because design-level geotechnical investigations have not been conducted to determine the appropriate criteria for each future residence on proposed lots. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation, which requires implementation of design-level geotechnical investigations for future residences. The investigation would determine the appropriate seismic design criteria and soil conditions for the proposed structure in accordance with the latest adopted CBC on the basis of soil type, the magnitude of the controlling seismic event, slip rate of the nearest fault, and distance to the nearest active fault. The report(s) shall be submitted along with the plans for review and approval by the the

Town of Los Gatos Building Division for compliance with the latest adopted CBC. Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead-and-live loads. Therefore, structures designed in accordance with the CBC should be able to: (1) resist minor earthquakes without damage, (2) resist moderate earthquakes without structural damage but with some nonstructural damage, and (3) resist major earthquakes without collapse but with some structural as well as nonstructural damage. While conformance to the current building code recommendations does not constitute any kind of guarantee that significant structural damage would not occur in the event of a maximum magnitude earthquake, it is reasonable to expect that a well-designed and well-constructed structure would not collapse or cause loss of life in a major earthquake.

***Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation:*** *The Town shall require the applicant for each lot or each phase of a group of lots to submit a geotechnical report to the Town of Los Gatos for review and approval a design-level geotechnical investigation, once detailed lot and home designs are available prior to issuance of grading and building permit(s). The investigation(s) shall determine the surface and subsurface soil conditions at the site and assess the potential for ground shaking, slope stability under static and seismic conditions, expansive soil, estimate of settlement, lateral movement and related effects. The investigation(s) shall address all soils engineering constraints and specify criteria and standards in accordance with the current California Building Code (CBC) for site grading, excavation, on-site utility trenching, drainage, pavement design, retaining wall design, erosion control, seismic design, and foundation design.*

*For proposed Lots 3-8 and 4-17, which extend to the top of the moderate to steep slopes along the western property boundary, the investigation(s) shall include subsurface exploration and a slope stability analysis to evaluate the potential for static and seismic slope instability, along with any necessary mitigation to prevent slope instability. For lots with fill materials, the design-level geotechnical investigation(s) shall assess the potential for fills to become unstable and shall include recommendations for stabilization. The applicant for each lot or group of lots shall incorporate all recommendations of the design-level geotechnical investigation(s) into the each home design and implement appropriate construction methods on each lot in order to minimize the potential impacts resulting from regional seismic activity, estimate of settlement, lateral movements, slope conditions, and subsurface soil conditions on the site. A geotechnical expert shall be present during construction activities to observe earthwork and foundation construction, and shall conduct any necessary testing to confirm compliance with the recommendations of the design-level geotechnical investigation(s).*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measure 4.4-1, which requires implementation of a design-level geotechnical investigation to address seismic design of the proposed structures as a condition of project approval.

**Impact 4.4-2: The proposed project could result in substantial erosion, but could result in loss of topsoil. (Less Than Significant with Mitigation)**

**Erosion Hazards.** Without proper soil stabilization controls, construction activities such as building demolition, excavation, backfilling, and grading can increase the potential for soil loss and erosion by wind and stormwater runoff through the removal of stabilizing vegetation and exposure of areas of loose soil. Newly constructed and compacted engineered slopes can also undergo substantial erosion through dispersed sheetflow runoff, and more concentrated runoff can cause the formation of small erosional channels and larger gullies, each compromising the integrity of the slope and resulting in significant soil loss.

Initial grading for proposed driveways and building pads would be completed on gentle slopes along the spine of the ridge when demolition has been completed and roads are constructed. Once this is completed, grading would be conducted by the developers of individual lots for construction of new residences and ancillary structures. Many of building envelopes on the westernmost lots extend to the moderate to steep slopes along the western boundary of the project site, but construction activities would not disturb the slopes.

Site preparation and grading could increase the potential for soil erosion during construction, and runoff from lots adjacent to slopes could increase erosion on the slopes once the proposed residences are constructed. However, as discussed in Section 4.5, Hydrology and Water Quality (Impact 4.5-1), the project sponsor would be required to obtain a Town of Los Gatos grading permit and also comply with the requirements of the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (Construction General Stormwater Permit) to control erosion during construction. The Los Gatos grading permit requirements are discussed above in Section 4.4.2, Regulatory and Planning Framework, and the Construction General Permit requirements are discussed in the Section 4.5.2, Regulatory and Planning Framework, included in Section 4.5, Hydrology and Water Quality. As specified by Town Code (Chapter 12, Grading, Erosion and Sediment Control), the Town would require the project applicant to prepare and implement an approved erosion and sediment control plan, subject to review and approval by the Town Engineer. In addition, the project applicant would be required to prepare and implement a Storm Water Pollution Prevention Plan in accordance with the Construction General Stormwater Permit. These plans would specify the use of best management practices to restrict soil erosion during construction and post-construction stormwater controls that would restrict soil erosion once the project is constructed. Compliance with requirements specified in the Town of Los Gatos Grading Permit and the Construction General Stormwater Permit (required as conditions of approval) would ensure that construction-related erosion hazard impacts would be less than significant.

**Loss of Topsoil.** Many of the planned building envelopes are located in areas that are currently developed and often contain level building pads, and any previous topsoil located in these areas would have been removed during previous development activities. However, currently undeveloped and landscaped garden

areas on the project site could include a well-developed topsoil horizon, and additional areas used as gardens could also include a well-developed topsoil horizon. Some of the soil would be considered a hazardous waste based on DDT and chlordane concentrations as discussed in Section 4.10, Hazards and Hazardous Materials. However, contaminated soil would be removed from the site under the oversight of a regulatory agency prior to any excavation or demolition activities under the proposed project as required by Mitigation Measure 4.10-2, and any soil remaining on-site after implementation of this mitigation would be suitable for on-site reuse. Therefore, construction of homes in areas with a developed topsoil horizon could result in loss of topsoil, a significant impact. This impact would be less than significant with implementation of Mitigation Measure 4.4-2, Top Soil Salvage, which requires the developers of individual lots to salvage topsoil during excavation, if present, and subsequently use the soil for site restoration activities once construction is complete.

***Mitigation Measure 4.4-2, Top Soil Salvage:** The Town shall require the developers of individual lots to ensure that topsoil, if present, is salvaged during grading. The topsoil shall be stockpiled separately from subsoils, and the stockpiles shall be protected from erosion (e.g., by covering or watering). Once construction is completed, the stockpiled topsoil shall be reused for site restoration in open or garden areas of the lot.*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measure 4.4-2 which requires salvaging topsoil, if present.

**Impact 4.4-3: The proposed project could cause a geologic unit to become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. (Less Than Significant With Mitigation)**

**Construction on Top of Slopes.** The planned cul-de-sacs, infrastructure, and all of the potential building envelopes would be located on gentle slopes along the spine of the ridge, and in these areas the potential for slope instability would be low. However, many of building envelopes on the westernmost lots extend to the top of the moderate to steep slopes along the western boundary of the project site. These slopes are considered to have a moderate to high potential for slope instability, and construction on the top of these slopes could potentially cause them to become unstable, and potentially resulting in on- or off-site landsliding, a significant impact. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation, described above. This measure requires the applicant for future residences to implement a design-level geotechnical investigation prior to design of the proposed residences and any ancillary structures. For lots that extend to the moderate to steep slopes (Lots 3-8 and 14-17), the investigation would need to include a subsurface exploration and slope stability analysis to evaluate the potential for static and seismic slope instability. The applicant for residences on those lots would be required to implement any recommended measures to address slope instability hazards. Such measures could include, at a minimum, supporting the structures on deeper foundations.

**Settlement and Creep of Fill Materials.** As discussed above in the Setting section, the geologic and geotechnical hazards evaluation determined that non-engineered fill materials are present in portions of the site, primarily those areas associated with the earliest developed areas as well as around residences and other outlier buildings around the west, northwest, and north perimeters of the site. The fills may also be present at retaining walls, in depressed areas where older structures were demolished, and along a former flume that paralleled the north and west property boundaries. There is some evidence of debris within the fill materials and some of the fills have been over steepened, without support at their base. The over steepened fills could be subject to creep and settlement and this could cause damage to future residences and ancillary structures, a significant impact. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation, which requires that the design-level geotechnical investigation(s) for individual lots assess the potential for fill materials to become unstable, and make recommendations for stabilization. Examples of stabilization include removing the fill and replacing it with engineered fill, or supporting future residences on deep foundations so they derive their support from bedrock, and using properly engineered structural slabs and foundations that can accommodate lateral forces resulting from soil creep.

*Mitigation Measure 4.4-3: Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation.*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measure 4.4-1, which requires implementation of a design-level geotechnical investigation to address slope instability and unstable fills.

**Impact 4.4-4: The proposed project would be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code and could create a risk to life and/or property. (Less Than Significant With Mitigation)**

As discussed above in the Setting section, the level to gently sloping areas of the project site are located within areas of moderate to high shrink-swell potential and the steeper portions of the site are located within areas of a moderate shrink-swell potential. The geologic and geotechnical hazards evaluation also states that based on experience in the project vicinity, the plasticity index of the Santa Clara Formation typically ranges from about 18 to 30, indicating a moderate to high expansion potential in response to wetting and drying cycles. Expansion and contraction of expansive soils can cause damage and/or distress to structures, a significant impact. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation, which requires implementation of a design-level geotechnical investigation that assesses the presence of expansive soils and makes recommendations for foundation designs that would resist damaging soil movements. Additional measures could include requiring that slabs at grade are underlain by non-expansive fill, and limiting moisture changes in the soil by limiting landscape watering and creating a positive drainage, away from the buildings.

*Mitigation Measure 4.4-3: Mitigation Measure 4.4-1, Design-Level Geotechnical Investigation.*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measure 4.4-1, which requires implementation of a design-level geotechnical investigation to address expansive soil.

#### REFERENCES – GEOLOGY, SOILS, AND SEISMICITY

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- Cornerstone Earth Group (Cornerstone), 2013. *Updated Feasibility Geologic and Geotechnical Hazards Evaluation, Sisters of the Holy Names of Jesus and Mary, 100 and 200 Prospect Avenue*. July 15. (Included in Appendix D of this EIR)
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- Norris, R.M. and R.W. Webb, 1976. *Geology of California, 1st Edition, John Wiley & Sons, Inc.*
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- Youd, T.L. and D.M. Perkins, 1978. *Mapping Liquefaction Induced Ground Failure Potential*. Proceedings of the American Society of Civil Engineers, Journal of the Geotechnical Engineering Division, 1978.

## **4.5 HYDROLOGY AND WATER QUALITY**

This section evaluates the project's effects related to water quality degradation, alteration of drainage patterns, and stormwater drainage during construction and post-construction. Potential effects on groundwater depletion and interference with groundwater recharge are also addressed.

### **4.5.1 ENVIRONMENTAL SETTING**

#### **SURFACE WATER FEATURES**

The project site is located in the Los Gatos Creek watershed. The Los Gatos Creek Watershed is located at the southwestern edge of the Santa Clara Valley Water District's (SCVWD's) Guadalupe Watershed planning area (SCVWD, 2012a). The watershed originates at an elevation of approximately 3,485 feet in the Santa Cruz Mountains. As the principal drainage for the watershed, Los Gatos Creek is over 20 miles long and flows from the Santa Cruz Mountains through Los Gatos and the cities of Campbell and San Jose. The creek joins Guadalupe River nearly 6 miles downstream of the project site, north of Interstate 280. Guadalupe River ultimately discharges to South San Francisco Bay via Alviso Slough.

Similar to most watersheds in the Santa Clara Valley, the geography of the Los Gatos Creek watershed varies between the undeveloped, steep uplands in the Santa Cruz Mountains (about 73%) and the developed urban valley floor. Approximately three-quarters of the Los Gatos Creek Watershed is non-urbanized, including an array of parks, open space, rangeland and forests in the southern half. About 20% of urbanized land is residential (SCVWD, 2012a).

The subject property is located on a northerly trending spur ridge on the northeast flank of the Santa Cruz Mountains. The ground surface along the spine of the ridge (over the majority of the site) is generally very gently sloping in several directions. There are no natural surface water features, e.g. creeks, ponds, etc., on the project site.

#### **EXISTING DRAINAGE**

Site elevations on the project site range from approximately 608 feet above mean sea level (msl) at the highest point in the central southern part of the property, down to about 550 feet msl along the western property line (Cornerstone, 2013a). On the west and south sides of the site, the slopes become moderate (30%) to steep (50%). Slopes are generally gentle toward the north and east.

Due to the project site's topography and development, storm flows generated on the property occur in three distinct drainage areas. The majority of runoff on the site is collected in an on-site drainage system or flows overland toward a drain inlet on Prospect Avenue. Detailed plans of the on-site drainage system are not available. For purposes of project review, it is assumed that all storm runoff from the developed portion of the site, which encompasses 6.44 acres in Drainage Area 1, flows towards the inlets on

Prospect Avenue. The hillside portions of the site (3.10 acres in Drainage Area 2) sheet flow to the former San Jose Water Company Flume right-of-way. Along this former right of way, a drain inlet collects a portion of the site runoff from Drainage Area 3, at the edge of the lot with APN 529-44- 007. The existing conditions drainage areas are shown in **Figure 4.5-1**. The drainage areas, including the impervious areas located in each drainage area, are described in **Table 4.5-1**.

**TABLE 4.5-1**  
**EXISTING DRAINAGE AREAS**

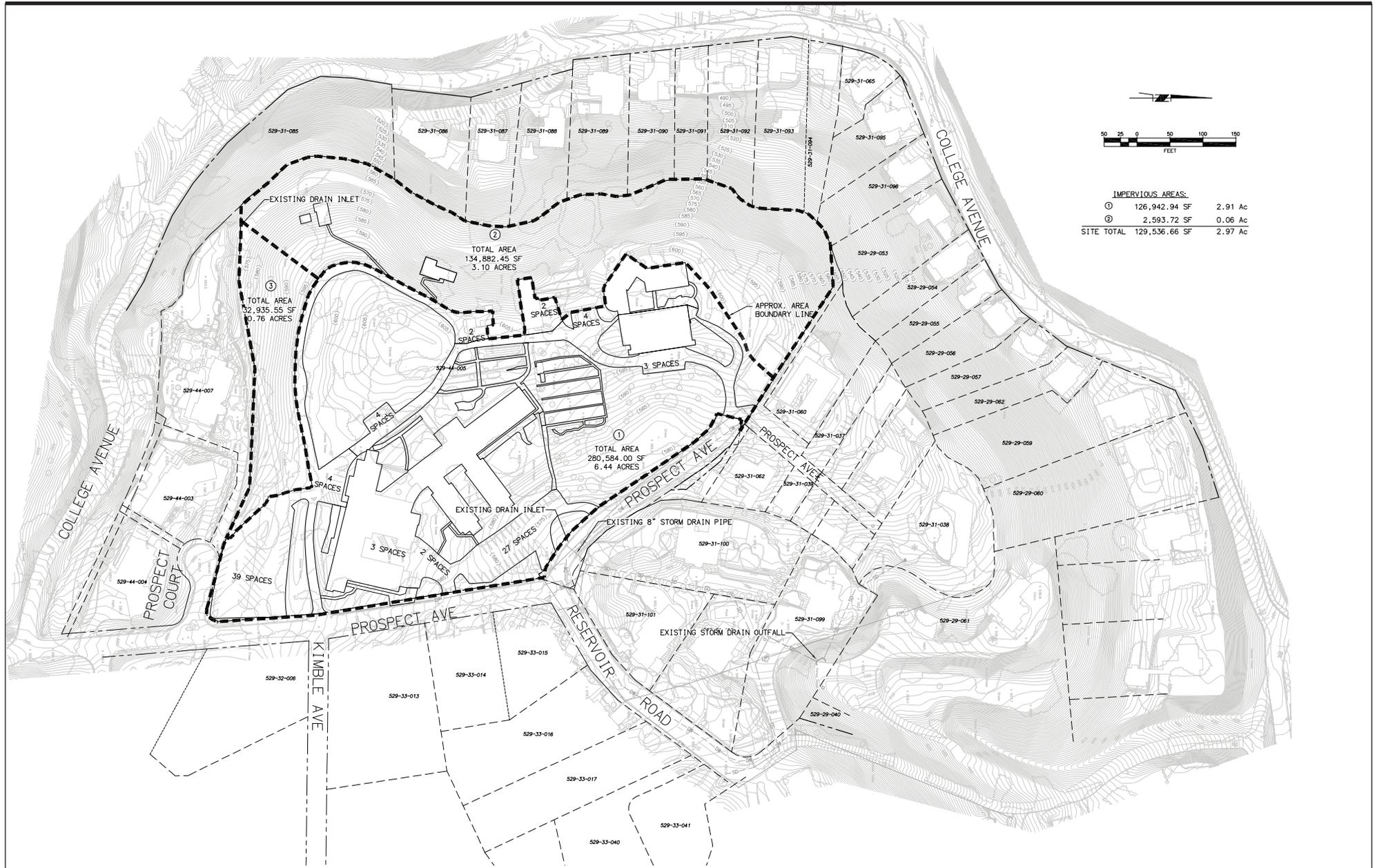
<b>Drainage Area</b>	<b>Description</b>	<b>Pervious Area</b>	<b>Impervious Area (s.f.)</b>	<b>Total Area (s.f.)</b>	<b>Percent Impervious</b>
1	Developed Area draining to Prospect Road	153,641	126,943	280,584	45.2%
2	Hillside Area draining to former flume right-of-way	132,289	2,594	134,882	1.9%
3	Hillside Area draining to existing drain inlet	32,935	-	32,935	0.0%
Total		318,864	129,537	448,401	28.9%

The project site is developed with six buildings, ancillary structures (e.g. pump house, greenhouse, sheds, etc.), parking lots, and landscaping. Storm drainage from the site's buildings and parking lots is collected in an on-site storm drain system and conveyed to an 8-inch storm drainpipe in Prospect Avenue, near its intersection with Reservoir Road. From Prospect Avenue, stormwater is conveyed via a 21-inch storm drainpipe for approximately 400 feet to an outfall structure within Los Gatos Creek. Approximately 7.3 acres of the 10.3-acre site is pervious, while the remaining 3.0 acres is comprised of impervious surfaces including buildings, roadways, driveways and sidewalks. Presently, runoff from the project site is not treated.

### **FLOOD HAZARDS**

According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps for the project area, the entire project site is located within Zone X, described as "Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood"(FEMA, 2009). The 1% annual chance flood is also referred to as the 100-year flood and the 0.2% annual chance flood is also referred to as the 500-year flood. The project site is not within the vicinity of any streams nor contains any defined drainage channels. The Zone X designation has been applied to other parts of Los Gatos with drainage characteristics similar to those of the project site.

The Town has indicated that there is a small area of flooding that occurs at the existing drain inlets on Prospect Road near the intersection of Reservoir Road. The delineated flood limits are generally within Prospect Road; the area subject to localized flooding is indicated in Figure 4.5-1.



The project site is not located within a dam failure inundation area for the Elsmar, Lexington, and Vasona Reservoirs as identified on dam inundation maps provided by the Association of Bay Area Governments (ABAG, 1995).

### **WATER QUALITY**

Runoff from the site discharges to Los Gatos Creek, flowing into the Guadalupe River and ultimately draining to South San Francisco Bay. Los Gatos Creek is listed on the Clean Water Act Section 303(d) List of Water Quality Limited Segments for diazinon, a pesticide associated with urban runoff (SWRCB, 2010). Guadalupe River is listed on the Section 303(d) list for diazinon, mercury, and trash. South San Francisco Bay is on the 303(d) list due to the presence of chlordane, DDT, dieldrin, dioxin compounds, furan compounds, mercury, selenium, PCBs, and invasive species. (See Section 4.5.2, Regulatory and Planning Framework, for a description of Clean Water Act Section 303(d) Listings of Impaired Water Bodies.)

### **GROUNDWATER**

The Town is located within the Santa Clara sub-basin of the Santa Clara Valley Groundwater Basin, which is managed by the SCVWD (SCVWD, 2012b). Due to different land use and management characteristics, the SCVWD further delineates the Santa Clara sub-basin into the Santa Clara Plain and the Coyote Valley groundwater management areas, and the project site is located in the Santa Clara Plain management area. The Santa Clara Plain is the northern portion of the Santa Clara sub-basin and extends from southern San Francisco Bay to the Coyote Narrows, near Metcalf Road. The Santa Clara Plain is divided into confined and recharge areas. The confined area is located in the northern and central portion. The recharge area occurs along the edges of the sub-basin adjacent to the foothills, and includes the project site.

No information regarding on-site groundwater depths is available from geotechnical or drainage reports prepared as part of the site planning process. The site is not in an area known to have a laterally extensive ground water table (Cornerstone, 2013a). Perched ground water conditions can typically be encountered seasonally. Fluctuations in ground water levels can occur due to many factors including rainfall, irrigation, surface water and runoffs, and other factors not in evidence at the time of observation. The Phase I environmental site assessment (Cornerstone, 2013b) prepared for the project site notes that groundwater flow directions typically follow surface topography and, therefore, are likely to be variable on the site. A northerly regional groundwater flow would be expected in the project vicinity.

## **4.5.2 REGULATORY AND PLANNING FRAMEWORK**

### **CLEAN WATER ACT**

The federal Clean Water Act and subsequent amendments, under the enforcement authority of the US Environmental Protection Agency (USEPA), was established “to restore and maintain the chemical,

physical, and biological integrity of the Nation’s waters.” The act established the basic structure for regulating discharges of pollutants into the waters of the United States. It gave the USEPA the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also set water quality standards for all contaminants in surface waters and made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.

### **SECTION 303(D) LIST OF IMPAIRED WATER BODIES AND TOTAL MAXIMUM DAILY LOADS**

In accordance with Section 303(d) of the Clean Water Act, states must present the USEPA with a list of “impaired water bodies,” defined as those water bodies that do not meet water quality standards. The Clean Water Act also requires the development of actions, known as total maximum daily loads (TMDLs), to improve water quality of impaired water bodies. The first step of the TMDL process is development of a TMDL report describing the water quality problem addressed, detailing the pollutant sources, and outlining the solutions. An implementation plan, included in the TMDL report, describes how and when pollution prevention, control, or restoration activities will be accomplished and who will be responsible for these actions. The final step of the TMDL process is adopting and amending the Basin Plan to legally establish the TMDL and to specify regulatory requirements for compliance. As part of the Basin Plan Amendment, waste load allocations are specified for entities that have permitted discharges. Amendments to the Basin Plan are currently proposed to address mercury in Guadalupe Creek and pesticides in San Francisco Bay Region urban creeks (RWQCB, 2012).

### **NPDES WASTE DISCHARGE REGULATIONS**

The federal Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) program to protect water quality of receiving waters. Under the Clean Water Act, Section 402, discharge of pollutants to receiving waters is prohibited unless the discharge is in compliance with an NPDES permit. In California, the USEPA has determined that the State’s water pollution control program has sufficient authority to manage the NPDES program under California law in a manner consistent with the Clean Water Act. Therefore, implementation and enforcement of the NPDES program is conducted through the State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (RWQCBs), as discussed further below.

### **PORTER-COLOGNE WATER QUALITY CONTROL ACT**

The Porter-Cologne Water Quality Control Act (Division 7 of the California Water Code) regulates water quality within California and established the authority of the SWRCB and the nine regional water boards. The quality of San Francisco Bay area water resources is regulated under the jurisdiction of the San Francisco Bay Region RWQCB.

### **WATER QUALITY CONTROL PLANS AND BENEFICIAL USES**

The RWQCB established regulatory standards and objectives for water quality in the San Francisco Bay Region in the Basin Plan, which was most recently updated in 2010. The Basin Plan identifies existing, limited, and potential beneficial uses for surface water and groundwater, and provides numerical and narrative water quality objectives designed to protect those uses. Applicable water quality criteria for a specific water body, specified by the National Toxics Rule or the California Toxics Rule, are determined on the basis of the beneficial use(s) of the water. The Basin Plan also specifies that beneficial use designations for any given water body do not rule out the possibility that other beneficial uses exist or have the potential to exist. Existing beneficial uses that have not been formally designated in this Basin Plan are protected whether or not they are identified.

### **MUNICIPAL REGIONAL STORMWATER PERMIT**

Stormwater in Santa Clara County is managed in accordance with the Municipal Regional Stormwater NPDES permit (MRP) from the San Francisco Bay Region RWQCB (Permit No. R2-2009-0074 adopted on October 14, 2009 and revised on November 28, 2011). This permit regulates discharges from all municipal separate storm sewer systems in Santa Clara County, including those in the Town of Los Gatos.

Provision C.3.b.ii(3)(a) of the MRP requires that where a redevelopment project results in an alteration of more than 50 percent of the impervious surface area of a previous existing development that was not subject to Provision C.3, the entire project, consisting of all existing, new, and/or replaced impervious surfaces, must be included in the treatment system design.

Provision C.3.c of the MRP requires new development and redevelopment projects that create or replace 5,000 square feet or more of impervious surfaces to incorporate Low Impact Design (LID) including source control measures, site design features, and treatment measures to reduce the pollutant load in stormwater discharges and to manage run-off flows.

Provision C.3.d of the MRP requires that stormwater treatment systems meet specific numeric sizing criteria.

Provision C.3.g of the MRP requires that certain new development projects implement hydromodification measures to manage increases in stormwater runoff flow and volume so that the post-project runoff does not exceed the estimated pre-project runoff rates and durations. The proposed project would not be subject to these hydromodification management requirements because it would result in a net reduction of impervious surfaces at the project site, and a related net reduction in stormwater runoff.

Provision C.6 of the MRP requires permittees to adopt a construction site inspection and control program at all construction sites. Permittees must review construction-site erosion control plans for consistency with local requirements, including the appropriateness and adequacy of proposed best management practices

(BMPs) as well as verification that site operators/developers have complied with the Construction General Stormwater Permit before issuing the grading permit for a project. The permittees must conduct inspections to determine compliance with local grading and stormwater requirements.

Provision C.14 of the MRP details a control program for polybrominated diphenyl ethers (PBDE), legacy pesticides, and selenium to help determine whether urban runoff is a conveyance mechanism associated with impairment of San Francisco Bay by these pollutants. To comply with this program, the permittees are required to characterize the representative distribution of these pollutants to determine if they are present in urban runoff, determine whether they are distributed uniformly in urban areas, determine whether storm drains are sources of these pollutants in themselves, and determine whether there are specific locations within urban watersheds where prior or current land uses contribute to discharges of these pollutants.

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is the local entity within Santa Clara County responsible for implementing compliance with the Municipal Regional Stormwater NPDES permit. SCVURPPP is an association of 13 cities and towns in Santa Clara Valley, the County of Santa Clara, and the Santa Clara Valley Water District.

#### **CONSTRUCTION GENERAL STORMWATER PERMIT**

For stormwater discharges associated with construction activity in the state of California, the SWRCB has adopted the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (Construction General Stormwater Permit), in order to avoid and minimize water quality impacts attributable to such activities. The Construction General Stormwater Permit became effective on July 1, 2010 and expires on September 2, 2014; it applies to all projects where construction activity disturbs one or more acres of soil. Construction activities subject to this permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation. The Construction General Stormwater Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), which includes and specifies BMPs designed to prevent pollutants from contacting stormwater and keep all products of erosion and stormwater pollutants from moving offsite into receiving waters.

The permit includes a risk-based permitting approach, dependent upon the level of sediment risk imparted by a project and the sensitivity of the receiving water. Receiving waters are considered to have a high risk if they are 303(d) listed impaired water body for sediment or have beneficial uses for fish spawning, cold freshwater habitat, and fish migration. The sediment risk of the site is determined by the expected intensity of rainfall during the construction period, soil erodibility, and slope of the construction site.

#### **LOS GATOS GRADING, EROSION, AND SEDIMENT CONTROL REQUIREMENTS**

The Town of Los Gatos requirements related to grading, erosion, and sediment control are specified in Chapter 12 of the Town of Los Gatos municipal code. This chapter specifies that the Town Engineer can

require a grading permit for any grading that could result in a discharge into or connection to a watercourse. The application for a permit must include a site map and grading/drainage plan as well as an erosion and sediment control plan. An interim erosion and sediment control plan is required if construction is started before October 1<sup>st</sup>, and the final erosion and sediment controls are not in place. Interim erosion control measures can include methods such as silt fences, fiber rolls, erosion control blankets, seeding, filter berms, check dams, and retention basins. Further, excavation, grading, and drainage activities must meet the design standards specified in Chapter 12. The Town would not issue a grading permit until the site map, grading and drainage plan, and interim and final erosion and sediment control plans are approved. All grading must be conducted in a manner that the levels of dirt, rock, debris, and other materials are not discharged to a water body in excess of natural levels unless specifically provided for in a permit.

### LOS GATOS GENERAL PLAN

The goals, policies, and implementation measures in the General Plan for hydrology and water quality applicable to the proposed project are provided below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with conflicts with policies designed to protect the environment. Project consistency with those guidelines is discussed in the following project consistency analysis table.

<b>General Plan Policy</b>	<b>Project Consistency Analysis</b>
<p><i>Environment and Sustainability Element</i>  <i>ENV-5.1: Applicants shall demonstrate that new development will not contaminate surface water and/or groundwater.</i></p>	<p>Potential sources of groundwater and surface water contamination include stormwater runoff during demolition, grading, potential future construction, and post-development. Methods to address stormwater runoff during these activities include implementation of an erosion control plan in accordance with Town requirements/conditions of approval and a stormwater pollution prevention plan in accordance with the Construction General Stormwater Permit, as discussed in Impact 4.5-1. The project would be required to comply with C.3 requirements for post-development stormwater controls (see Impact 4.5-4 for more discussion).</p>
<p><i>ENV-5.3: Cooperate with the Santa Clara Valley Water District and other agencies to protect watersheds and riparian habitats from degradation.</i></p>	<p>The project would not affect the riparian habitat of Los Gatos Creek or other watersheds. The Los Gatos Creek watershed would be protected from indirect water quality impacts as described above under the project analysis for Policy ENV-5.1.</p>
<p><i>ENV-5.4: Preserve existing creeks and avoid disturbances to these areas.</i></p>	<p>The project would not disturb or affect the preservation of Los Gatos Creek or any other creeks.</p>
<p><i>ENV-5.6: Encourage alternative materials and designs to limit driveways, parking areas and parking lots in all zones except the C-2 zone. Examples include, but are not limited to, pervious paving material, and “ribbon strip” driveways, which have pavement in tire areas and grass</i></p>	<p>The project would minimize impervious surfaces and includes an overall reduction of 18,222 s.f. of impervious surfaces. Additionally, the project is required to provide site design BMPs to minimize runoff and introduction of pollutants in stormwater runoff. To</p>

**General Plan Policy**

*or gravel in the middle.*

*ENV-5.7: Parking lots should be designed to drain into landscaped areas.*

**Project Consistency Analysis**

treat runoff and maximize infiltration, the stormwater control plan for the project, described in Impact 4.5-4, specifies self-treating areas to control runoff from impervious areas, including direct flows from driveways, parking areas, and building rooftops to landscaped and vegetated areas. Flows from walkways and pedestrian improvements would be drained to adjacent landscaped areas identified on the plans as self-retaining treatment basins.

*ENV-9.1: As part of CEQA review for development projects, require analysis of the single and cumulative impacts on water drainage (runoff) and contamination (water quality) in all areas but particularly in or adjacent to hillsides, riparian corridors, and important undeveloped watersheds.*

Individual impacts related to water quality and hydrology are addressed in Impacts 4.5-1 through 4.5-4. Cumulative impacts are addressed in Chapter 5.

*ENV-9.2 Promote non-point source pollution control programs to reduce and control the discharge of pollutants into the storm drain system.*

The project would be required to incorporate non-point source pollution control measures into its drainage plan (see Impact 4.5-4 for more discussion).

**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES (HDSG)**

With respect to projects involving land subdivisions, the HDSG contains the following development standard and guideline related to lot configuration and building locations:

**Hillside Development Standards and Guidelines**

*VIII. Subdivision and Planned Development Projects*  
*E. Development Standards and Guidelines*  
*2. Drainage – Standards:*  
*a. Upslope development shall not negatively impact downslope drainage.*

**Project Consistency Analysis**

Most of the proposed lots would drain directly to the proposed cul-de-sacs or Prospect Avenue. However, portions of Lots 9 and 10 are located uphill of Lots 11, 12, and 13, and private drainage easements are proposed on these three lots to allow surface runoff from Lots 9 and 10 to drain to Prospect Avenue. As a condition of project approval and prior to granting of the grading permit, the Town will require the applicant to define in the required grading and drainage plans how interim and final drainage conditions will be addressed, including recordation of the proposed private drainage easement and homeowners' responsibilities for maintenance, (i.e. how runoff from Lots 9 and 10 will be handled so that it does not adversely affect Lots 11, 12, and 13.) In addition, portions of Lots 1, 3 through 8, and 14 through 17 will continue to drain to the south and west as they have historically.

### 4.5.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based on criteria derived from Appendix G of the *CEQA Guidelines*, a project would normally have a significant effect on hydrological conditions and/or water quality if the proposed project would:

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

Based on project characteristics and the water resources in the project area, no impacts are anticipated with respect to the following topics:

- *Placement of Housing within a 100-year Flood Hazard Area.* As discussed in the Setting, the project site is located within a flood zone designated as Zone X (areas that could be inundated by a 500-year flood; 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from the 100-year flood.) However, the proposed project site comprises part of a ridge on the northeast flank of the Santa Cruz Mountains. Due to site terrain, absence of natural drainage features, and prevailing slopes, drainage patterns on the site would preclude potential flooding hazards for the proposed

residential uses. Therefore, there is no impact related to placement of housing with a 100-year flood hazard area.

- *Place structures within a 100-year Flood Hazard Area impeding or redirecting flood flows.* The project site is not located within the floodway of Los Gatos Creek or any other water body and therefore would not impede or redirect flood flows in the floodway, affect the flood carrying capacity of Los Gatos Creek, or affect the base flood elevation downstream.
- *Cause significant risk of loss, injury or death involving flooding, including flooding from the failure of a levee or dam.* The Town has indicated that there is a small area of flooding that occurs at the existing drain inlets on Prospect Road near the intersection of Reservoir Road. The project site is not located within a dam failure inundation area for the Elsman, Lexington, and Vasona Reservoirs as identified on dam inundation maps provided by the Association of Bay Area Governments (ABAG).
- *Inundation by Seiche or Tsunami.* The project site is located at an elevation of approximately 600 feet msl, more than 16 miles south of the bay shoreline; therefore, there would be no risk associated with tsunamis which are large sea waves. Seiches are standing waves caused by large-scale, short-duration phenomena (e.g. wind or atmospheric variations or seismic activity) that result from the oscillation of confined bodies of water (such as reservoirs and lakes) that may damage low-lying adjacent areas as a result of changes in the surface water elevation. The project site would not be subject to a seiche because the nearest large water body is Vasona Reservoir located approximately one mile to the south. The project is located away from the edge of the reservoir and would therefore not be adversely affected by a change in the surface water elevation. In summary, there would be no impact related to exposure of people or structures to significant risk of loss, injury, or death involving seiche, or tsunami. Risks associated with landslide-induced mudflows are discussed in Section 4.4, Geology and Soils, Impact 4.4-3.

## METHODOLOGY

The analysis below evaluates the project's potential changes in drainage based on the proposed Preliminary Stormwater Management Plan (PSMP), which provides information on the proposed post-construction stormwater controls to be implemented as part of the project plans. The PSMP is included in **Appendix E**. The conclusions in this evaluation are based on a peer review of the PSMP that was completed by the Town's environmental engineering consultant, EOA, Inc. (also included in Appendix E). EOA reviewed the PSMP to determine compliance with the stormwater requirements of the Town's NPDES Permit.

## SURFACE WATER QUALITY

**Impact 4.5-1: The proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality. (Less Than Significant)**

The project application for the proposed residential development of the property includes a Preliminary Stormwater Management Plan (PSMP) that provides information on the proposed post-construction stormwater controls to be implemented as part of the project plans (included in Appendix E). The PSMP indicates that the project is subject to the NPDES requirements of the Bay Area Municipal Regional Permit (MRP) issued by the San Francisco Bay Regional Water Quality Control Board. Post-construction controls are required under Provision C.3 of the MRP.

The project design process used the C.3 New and Redevelopment Guidebook to specify post-construction stormwater controls for meeting the C.3 requirements. Each lot would be self-treating to meet the C.3 requirements. Self-treating lots drain runoff from impervious surfaces such as rooftops, driveways, and other hardscape to pervious landscaped and vegetated areas. The pervious areas will need to be sized to be at least 50% of the tributary impervious area and allow at least 3 inches of ponding. By using self-retaining areas that are 3 inches deep, a total of about 12,000 cubic feet (0.27 acre-feet) of retention storage may be added to the site.

In addition to inclusion of self-treatment measures on each lot, C.3 requirements for treatment of runoff from impervious surface areas of the proposed cul-de-sac and a portion of the addition of Prospect Avenue would be met by developing stormwater treatment facilities adjacent to the lower section of the southern cul-de-sac (on Lots 2 and 11) and adjacent to Prospect Avenue cul-de-sac (on Lot 14). The Town's environmental engineering consultant, EOA, Inc. conducted a peer review of the PSMP to determine compliance with the stormwater requirements of the Town's NPDES Permit (MRP). The review encompassed: 1) various plan sheets submitted to the Town relating to the project's design, utilities, grading, and drainage; 2) a completed C.3 Data Form for the Town; and 3) the Preliminary Stormwater Management Plan. While the EOA peer review for project compliance with the C.3 provisions of the Town's stormwater permit determined the PSMP is acceptable in concept, EOA recommended the following conditions (to be addressed in the Final Stormwater Management Plan or at a later phase of the project): 1) once the specific drainage areas to the two biotreatment facilities on the new road have been determined, interceptor trees may need to be added to mitigate for any impervious surface associated with the new road that is not being treated; 2) "storm drain labeling" should be added as a source control measure for the new storm drain inlets, and indicated by a note on the final stormwater control plan; and 3) conditions should be placed on the development of the individual residential lots that require proper grading to allow roof and driveway runoff to be retained on the property up to the water quality design storm. In addition, EOA recommended that the Town coordinate with the applicant to include an easement, deed restriction, and maintenance agreement for those portions of the three properties encumbered by a stormwater treatment area. The applicant should provide a maintenance plan for the biotreatment facilities, and this should be included in the maintenance agreement.

**Construction.** The proposed project includes demolition of the existing site buildings and eventual construction of roads, 17 single-family detached residences, as well as associated drainage improvements and infrastructure. Excavation and stockpiling of soil during construction would be required as well as

placement of imported fills. Without proper controls, these construction activities could induce erosion, and related sedimentation, resulting in degradation of water quality in the existing storm drain system.

The project applicant would be required to obtain a grading permit from the Town of Los Gatos, and also comply with the Construction General Stormwater Permit described above in Section 4.5.2, Regulatory and Planning Framework because more than one acre of land would be disturbed. In accordance with the Town's grading permit requirements, the project sponsor would need to prepare a site map and grading plan as well as an erosion and sediment control plan. An interim erosion and sediment control plan would be required if construction is started before October 1<sup>st</sup>, and the final erosion and sediment controls are not in place. Interim erosion control measures could include methods such as silt fences, fiber rolls, erosion control blankets, seeding, filter berms, check dams, and retention basins. Further, excavation, grading, and drainage activities must meet the design standards specified in Chapter 12 of the Town of Los Gatos Municipal Code. The Town would not issue a grading permit until the site map, grading plan, and interim and final erosion and sediment control plans are approved.

In accordance with the Construction General Permit, Los Gatos Creek would have a low receiving water risk because the creek does not have all three existing beneficial uses for fish spawning, cold freshwater habitat, and fish migration. The sediment risk for the site would depend on the expected intensity of rainfall during the construction period, soil erodibility, and slope of the construction site, which cannot be determined at this time. Therefore, the construction site would be considered a Level 1 risk site if the sediment risk is also low and a Level 2 risk site if the sediment risk is medium or high. Accordingly:

- The provisions of the State General Construction Activity Permit require a Notice of Intent (NOI) to be filed with the State Water Resources Control Board (SWRCB) and proof of filing provided to the Town of Los Gatos prior to issuance of grading permit.
- A SWPPP must be implemented and must include at least minimum BMPs related to: housekeeping (storage of construction materials, waste management, vehicle storage and maintenance, landscape materials, pollutant control); non-stormwater management; erosion control; sediment control; and run-on/run-off control. At sites where traditional erosion and sediment controls do not effectively control accelerated erosion, and stormwater discharges may contribute to an exceedance of a water quality standard, it may be necessary to use an Active Treatment System to avoid impacts to water quality.
- Stormwater discharges and authorized non-stormwater discharges associated with all risk levels cannot contain hazardous substances above reportable quantities unless a separate NPDES permit has been issued for those discharges. Dischargers are required to minimize or prevent pollutants in stormwater discharges and authorized non-stormwater discharges through the use of controls,

structures, and implementation of BMPs. Risk level 2 dischargers are also subject to a pH Numeric Action Level (NAL) of 6.5 to 8.5 and a turbidity NAL of 250 NTU.<sup>1,2</sup>

- The discharger must implement a construction site monitoring program as part of the SWPPP to demonstrate compliance with the discharge prohibitions of the General Permit; demonstrate whether non-visible pollutants are present and could contribute to an exceedance of water quality objectives; identify the need for correction actions, additional BMPs, or SWPPP revisions; and evaluate the effectiveness of the existing BMPs. For all risk levels, visual inspection requirements include a baseline inspection of the stormwater BMPs before a rain event, daily inspections during a rain event, and post-storm inspection as well as a quarterly inspection. If the daily inspection identifies a condition that could result in a discharge of pollutants, a sample must be collected and analyzed for non-visible pollutant parameters identified in the SWPPP. Risk level 2 and 3 sites are also required to collect grab samples of any stormwater discharges to determine compliance with NALs of 6.5 to 8.5 for pH and 250 NTU for turbidity. Dischargers must immediately implement additional BMPs and revise the SWPPP if NALs are exceeded.

The Construction General Stormwater Permit is implemented and enforced by the San Francisco Bay RWQCB, which administers the stormwater permitting program for the program area. Dischargers are required to submit a notice of intent (NOI) and permit registration documents (PRDs) in order to obtain coverage under this Construction General Stormwater Permit. Dischargers are responsible for notifying the relevant RWQCB of violations or incidents of non-compliance, as well as for submitting annual reports identifying deficiencies of the BMPs and how the deficiencies were corrected.

Compliance with the Town grading permit and Construction General Stormwater Permit would: (1) restrict non-stormwater discharges from the construction site; (2) require use of BMPs to restrict soil erosion and sedimentation as well as releases of hazardous materials; and (3) require implementation of a construction site monitoring program to demonstrate compliance with permit requirements. Compliance with these requirements would ensure that proposed demolition and construction activities do not result in a violation of water quality standards or waste discharge requirements, or otherwise result in water quality degradation. Therefore, this impact would be less than significant during proposed demolition and construction.

**Operation.** The project would not violate any water quality standards or otherwise result in water quality degradation during operation because stormwater runoff from the project site would be managed consistently with the provisions of the Santa Clara Municipal Regional Stormwater NPDES permit

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<sup>1</sup>Order No. 2009 0009 DWQ as adopted also specifies Numeric Effluent Limitations (NELs) and associated receiving water limitations for Risk Level 3 sites. However, on December 27, 2011, the Superior Court issued a judgment and peremptory writ of mandate in *California Building Industry Association et al. v. State Water Resources Control Board*. The State Water Board will be amending Order 2009-0009-DWQ in accordance with the peremptory writ of mandate to remove the NELs and associated receiving water limitations. The most recent draft amendment was circulated to the public in June 2012, and was adopted by the State Water Board on July 17, 2012 (SWRCB, 2012b).

<sup>2</sup>Receiving Water Monitoring Trigger Levels and the requirement for receiving water sampling are specified in the revisions to the Construction General Stormwater Permit published on June 25, 2012 and adopted on July 17, 2012 (SWRCB, 2012a).

described above in Section 4.5-2, Regulatory and Planning Framework. The provisions of this permit require new or redevelopment projects to incorporate Low Impact Development (LID) measures to reduce the amount of pollutants washing off the site and to maintain pre-development surface water runoff rates. In accordance with these requirements, stormwater runoff from the new impervious surfaces (driveways, parking areas, and building rooftops) would infiltrate to groundwater through the use of self-treating pervious areas on each of the proposed lots. The pervious landscape areas surrounding each building site would need to accommodate at least 50% of the tributary impervious area and allow at least 3 inches of ponding. A total of approximately 12,000 cubic feet (0.27 acre-feet) of retention storage may be added on-site by using self-retaining areas that are 3 inches deep. Therefore, the residential uses of the project would not result in a violation of water quality standards or waste discharge requirements, or otherwise degrade water quality. Consequently, the water quality impacts for residential uses would be less than significant during operation.

The site design for the proposed project also includes the use of a new public road for access to eight of the 17 lots (Lots 3 through 10). The proposed roadway would have the potential to generate storm runoff that would drain to Prospect Avenue, but the project applicant would provide for the treatment of runoff flows from the additional impervious surface areas created by the proposed project's public streets through provision of biotreatment stormwater facilities on the project site and specify an easement, deed restriction, and maintenance agreement for those portions of the three properties encumbered by a stormwater treatment area. The biotreatment facilities would drain to two new storm drain inlets on the proposed road near the intersection of Prospect Avenue per the Town's standards for storm pipe installation.

*Mitigation Measure 4.5-1: None required.*

#### **GROUNDWATER SUPPLY**

**Impact 4.5-2: The proposed project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. (Less Than Significant)**

The proposed project does not propose to use groundwater for any component of the development. All water used on the project site would be from the local public water supply provided by the San Jose Water Company, which consists of both surface water and groundwater. There are no existing groundwater wells on the property and none are proposed. Therefore, the project would have a less-than-significant impact on groundwater depletion beyond any impacts associated with the provision of water by the San Jose Water Company and the agencies from which it directly or indirectly receives water, including the Santa Clara Valley Water District, the U.S. Bureau of Reclamation, and the California Department of Water Resources (see Chapter 4.12, Public Services and Utilities, Impact 4.12-4, for a discussion of impacts associated with the provision of public water to the project site).

The project would result in a net reduction of 18,222 s.f. (approximately 0.42 acre) of impervious surfaces as discussed in Impact 4.5-4. Further, stormwater runoff from the new impervious surfaces (driveways, parking areas, and building rooftops) would be filtered and infiltrated to the groundwater through on-site retention and percolation in self-treating landscape areas on each residential lot. With the approximately 0.42-acre reduction in impervious surfaces and the use of microdetention in landscape areas of the proposed residential lots, recharge to the local groundwater table would be increased, resulting in a beneficial impact related to interference with groundwater recharge.

*Mitigation Measure 4.5-2: None required.*

#### STORMWATER DRAINAGE

**Impact 4.5-3: Project implementation would not substantially alter the existing drainage pattern of the site or area by altering the course of a stream or incrementally increasing surface runoff from impervious surfaces in such a manner that could result in substantial erosion, siltation, or flooding on- or off-site. (No Impact)**

The project site does not include any existing streams or watercourses that could be altered or diverted. Therefore, there would be no impact related to alteration of drainage patterns by altering the course of a stream.

Currently, surface water runoff on-site is either conveyed to the existing storm drain system or infiltrates into the ground where pervious surfaces exist. A hydrological and hydraulic analysis was prepared for the project site and is presented in the PSMP for the project. In brief, the study indicates that the three Drainage Areas on the property generate 10.25 cubic feet per second (cfs) of peak runoff during a 10-year storm event and 14.99 cfs peak flows in a 100-year storm.

Replacement of impervious surfaces could increase the rate, duration, and quantity of stormwater runoff, potentially causing erosion and related water quality effects or flooding in the receiving water. However, under the proposed project, there would be a net reduction of 18,222 s.f. (approximately 0.42 acre) of impervious surfaces as discussed in Impact 4.5-4. Further, stormwater runoff from the new impervious surfaces (driveways and building rooftops) would be filtered and infiltrated to the groundwater through on-site microdetention areas. In addition, flows from walkways and other hardscape improvements would also be infiltrated to the groundwater through self-treating landscaped retention areas located on individual lots.

With the approximately 0.42-acre reduction in impervious surfaces, post-construction runoff volumes would be less than under existing conditions. Using the methodology specified by the Santa Clara County Drainage Manual, the PSMP presents calculated peak flow rates for the 10-year and 100-year storm events. As a result of proposed decreases in impervious surfaces on the property, the estimated peak flows

for the site would decrease to 8.50 cfs and 12.43 cfs for the 10-year and 100-year storm events, respectively.<sup>3</sup>

Further, development of the project would include the removal of all or portions of the existing storm drain system on the property and would include landscaped areas to capture and treat 100% of the runoff from the site (see Figure 3-6). While this would slightly alter drainage patterns from existing conditions, it would be an improvement over existing conditions because 100% of the stormwater runoff would be captured, treated, and partially infiltrated to the groundwater, resulting in no associated off-site erosion, siltation, or flooding. Therefore, the project would result in a beneficial impact related to alteration of drainage patterns. The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site.

**Mitigation Measure 4.5-3:** *None required.*

**Impact 4.5-4: Project implementation would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or introduce new sources of polluted runoff. (Less Than Significant)**

There are currently 129,537 s.f. (3.0 acres) of impervious surfaces on the project site. Under the proposed project, six existing buildings would be demolished, and 17 new residences would be constructed along with on-site driveways, parking, and various hardscape areas. The existing impervious surfaces would be replaced with new impervious surfaces, and the project would create approximately 111,315 s.f. (2.6 acres) of new impervious surfaces on portions of the site where there are currently no impervious surfaces. In all, the amount of impervious surfaces would be reduced by 18,222 s.f. (0.42 acre), resulting in a reduction of stormwater runoff from the project site. Further, as described above (see Impact 4.5-1), stormwater runoff from the new impervious surfaces on project lots (driveways, parking areas, and building rooftops) would percolate to the groundwater through self-treating retention areas located on project lots. With this infiltration and the reduction in impervious area, discharges to the storm drain system would be reduced from existing baseline conditions, and therefore, stormwater discharges would not exceed the capacity of existing downstream stormwater drainage facilities. It should be noted that the reductions in stormwater flows from the project site, as calculated by the PSMP's hydraulic analysis, include the assumption that the new roads would be constructed with impervious materials and two new storm drain inlets would be added on the new road near the intersection of Prospect Avenue per the Town's standards for storm pipe installation.

The site design for the proposed project also includes the construction of a new public road for access to proposed Lots 3 through 10 and extension of the northern terminus of Prospect Avenue for access to

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<sup>3</sup> RBF Consulting, 2013. *Sisters of the Holy Names: Preliminary Stormwater Management Plan*. June.

proposed Lots 14 through 17. The proposed roadways would have the potential to generate storm runoff that would drain to Prospect Avenue and potentially exacerbate an existing localized flooding hazard near the intersection of Prospect Avenue and Reservoir Road. In order to comply with the Town and State C.3 requirements, storm runoff generated on project roadways would percolate to the groundwater through biotreatment stormwater facilities proposed to be located adjacent to project roadways and Lots 2, 11, and 14 (see Figure 3-6). The biotreatment facilities would drain to two new storm drain inlets on the proposed road near the intersection of Prospect Avenue per the Town's standards for storm pipe installation.

The project would also need to incorporate Low Impact Development (LID) features to reduce pollutants in the stormwater runoff from all of the post-project impervious surfaces in accordance with Provision C.3.c of the Municipal Regional Stormwater Permit described in Section 4.5.2, Regulatory and Planning Framework because greater than 10,000 feet of impervious surface would be replaced or created and the project would replace existing impervious surfaces with new impervious surfaces. LID requirements of the permit include: 1) implementation of source control features to minimize the generation of stormwater pollutants; 2) site design features to minimize impervious surfaces and direct on-site drainage to natural areas for infiltration or storage containers for reuse; and 3) stormwater treatment measures to treat 100% of the site drainage. The stormwater treatment systems would need to meet the numeric sizing criteria specified in provision C.3.d of the Municipal Stormwater Permit.

Source control features that would be constructed under the proposed project entail maintenance activities such as pavement sweeping and catch basin cleaning. The Town's consulting environmental engineer, EOA, recommends additional measures involving: 1) the application and maintenance of "No Dumping" labels on storm drain inlets; and 2) "beneficial landscaping" (i.e. drought tolerant and/or native plants in order to minimize over-irrigation and the use of pesticides on landscaping). The Town of Los Gatos would include these requirements for additional source control features in their conditions of approval for the proposed project and the required measures would be incorporated into the design plans for the project.

The PSMP for the project also includes a description of site design measures that would result in the control of runoff flows from the site. These design measures include: 1) minimum land disturbance; 2) permeable pavement; 3) roof downspouts drain to landscaping; 4) microdetention in landscape; and 5) preserved open space of approximately 3.08 acres. The EOA peer review notes that the project design indicates clustered structures and/or pavement; however, the extent of proposed structure clustering is unclear and would require further additional details. Nonetheless, with the reduction in impervious surfaces and implementation of LID stormwater treatment features in accordance with provisions C.3.c and C.3.d of the Municipal Regional Stormwater Permit, impacts related to exceeding the capacity of an existing or planned storm drain system or providing an additional source of polluted stormwater runoff would be less than significant.

***Mitigation Measure 4.5-4: None required.***

**REFERENCES – HYDROLOGY AND WATER QUALITY**

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- State Water Resources Control Board (SWRCB), 2012b. *Construction Stormwater Program*. Available online at [http://www.swrcb.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.swrcb.ca.gov/water_issues/programs/stormwater/constpermits.shtml).

## 4.6 TRANSPORTATION AND TRAFFIC

This section summarizes the findings of a trip generation study that was completed for the proposed project by Hexagon Transportation Consultants, Inc. (Hexagon) in December 2012. The report was peer reviewed by TJKM Transportation Consultants (TJKM), the Town's consulting traffic engineer. The Town also reviewed the Hexagon study. Although not required by Town Level of Service standards or Congestion Management Agency Transportation Impact Analysis Guidelines, the Town requested that the study address the peak arrival and departure periods of Los Gatos High School, and the Hexagon study was subsequently updated in April 2013 to address trip generation during these time periods. The updated trip generation study (which also includes information from the December 2012 study) and TJKM peer review memo are included in **Appendix F** of this EIR. Traffic count data are available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>1</sup>

### 4.6.1 ENVIRONMENTAL SETTING

#### EXISTING ROADWAY NETWORK

Figure 4.2-1 presents a map of the roadway system in the vicinity of the site. Regional access to the project site is provided by State Route (SR) 17. Local access to the site is provided by Main Street, College Avenue, Pageant Way, Cleland Way, Reservoir Road, and Prospect Avenue. Prospect Avenue adjoins the eastern property boundary. A discussion of access roadways is provided below:

*SR 17* is a four-lane north-south freeway in the site vicinity located approximately 800 feet northwest of the project site. SR 17 extends northward through San Jose and southward through Los Gatos. Interchanges at Lark Avenue and Highway 9/Los Gatos-Saratoga Road provide access to the project area.

*Main Street* is a two-lane roadway with a posted speed limit of 25 mph in the project vicinity. Main Street east of SR 17 and in the site vicinity has striped Class II bike lanes and a crosswalk at its intersection with College Avenue. On-street parallel parking is on both sides of this street.

*College Avenue and Prospect Avenue* are two-lane streets (approximately 25 feet wide) that connect Main Street to the project site. This route provides access to the site and is approximately 0.7 mile between Main Street and the site. This route to the project site is referenced below as the "College Avenue" route.

*Pageant Way, Cleland Avenue, and Reservoir Road* are two-lane streets that also connect the project site with the lower section of College Avenue. While these streets are generally 25 feet wide, there are sections that are narrower and more sharply curved than College and Prospect Avenues. This route also

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<sup>1</sup> [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR)

has a steeper grade between Main Street and the site, but the route is much shorter, about 0.3 mile long. This route to the project site is referenced below as the “Reservoir Road” route.

### **PEDESTRIAN, BICYCLE, AND TRANSIT ACCESSIBILITY**

Main Street and the northern section of College Avenue (north of Pageant Way) have sidewalks on both sides of the street. Pageant Way and the section of College Avenue between Pageant Way and College Terrace have sidewalks on one side. There is a discontinuous sidewalk on one side of College Avenue generally between College Terrace and Jones Road with the sidewalk ending just south of Jones Road. There are no sidewalks along the southern section of College Avenue, Prospect Avenue, Cleland Avenue, or Reservoir Road.

There are striped Class II bike lanes on both sides of Main Street, but not on College Avenue, Prospect Avenue, Pageant Way, Cleland Way, or Reservoir Road.

Los Gatos Creek Trail is located approximately 600 feet northwest of the project site. This trail is a dedicated pathway for non-motorized activities with a minimum width of 8 feet to accommodate two-way travel. The section of the trail north of Main Street is the only recognized Class I bikeway in Los Gatos. South of Main Street (north of the creek), this trail becomes an unpaved, multi-use trail leading to Lexington Reservoir. The closest accesses to this trail from the project site are from Main Street via the Reservoir Road route (0.4 mile) or via the Jones Trail in the St. Joseph’s Hill Open Space and Flume Trail (about 1 mile).

Existing transit service to the study area is provided by the Santa Clara Valley Transportation Authority (VTA). The VTA provides bus service to the project area via two local routes: Bus Routes 48 and 49. These routes run along Main Street in the vicinity of the project site, extending between the Los Gatos Civic Center and the Winchester Transit Center in Campbell with 30-minute headways during the AM and PM peak hours. The Winchester Transit Center connects these bus routes to the southern station and termination point of the Mountain View-Winchester LRT Line. Both Routes 48 and 49 operate between 6:30 a.m. and 8:30 p.m. The nearest bus stop is located approximately 0.4 mile from the project site on Main Street at Church Street (in front of the Civic Center).

### **EXISTING TRAFFIC CONDITIONS**

The project site is currently developed with a full service Convent, housing, care, education, retreat and religious facility. The property operates under a conditional use permit that allows for a wide range of uses including residential living, education/classrooms, dining, chapel, administrative offices, indoor and outdoor recreation, retreats, common dining facilities, religious activities including daily mass and other religious services. The convent operates 24 hours per day, 7 days per week, and 365 days per year and has more than 65 staff entering and exiting the site in three daily shifts over each 24-hour period. Existing traffic includes vehicles from Sisters driving automobiles, staff shift changes, daily visitors, off-site vendors, events, retreats, service vehicles, food and supply trucks, contract medical service providers and

emergency medical services. The property can accommodate up to 140 residents, with 66 Sisters currently residing on site. The site currently operates at approximately 47% of maximum capacity.

Driveway counts were collected by Hexagon at the project site to determine the amount of traffic that is currently generated by the project site. The driveway counts consisted of 24-hour machine (tube) counts at every driveway providing access to the project site. The machine counts were collected for a total of seven consecutive days (from December 4 to 11, 2012). The count data utilized to estimate the trip generation for the project site are those collected at driveways 1-6, as shown in Figure 1 of Appendix F.

**Daily Trips.** Based on seven consecutive days of traffic counts, the existing site operations generate an average of 303 daily trips. The highest daily trips (419) occurred on Thursday, December 6<sup>th</sup>.

Although count data were collected for an entire week for traffic analysis purposes, the Town of Los Gatos only uses data that are collected on an average weekday (Tuesday through Thursday). The count data collected on typical weekdays show that existing site operations generate an average of 328 weekday daily trips. The same data indicate that the highest weekday daily trips (419) occurred on Thursday, December 6<sup>th</sup>.

**Peak Hour Trips.** Based on seven consecutive days of traffic counts, the existing site operations generate an average of 24 AM peak hour trips (7:00 to 9:00 a.m.) and 20 PM peak hour trips (4:00-6:00 p.m.). The highest AM peak hour trips (55) occurred on Thursday, December 6<sup>th</sup> while the highest PM peak hour trips (32) occurred on Sunday, December 9<sup>th</sup>.

Count data for typical weekdays show that existing site operations generate an average of 29 weekday AM peak hour trips and 19 weekday PM peak hour trips. The same data indicate that the highest weekday AM peak hour trips (55) occurred on Thursday, December 6<sup>th</sup> and the highest weekday PM peak hour trips (28) occurred on Tuesday, December 4<sup>th</sup>.

**High School Peak Periods.** Based on seven-day count data, it was determined that the existing site operations generate an average of 16 trips during the weekday high school peak arrival period (7:15 to 8:15 a.m.) and 32 trips during the weekday high school peak departure period (2:15 to 4:15 p.m.). The highest weekday high school arrival period trips (30) occurred on Monday, December 10<sup>th</sup> while the highest high school departure period trips (44) occurred on Saturday, December 8<sup>th</sup>.

Count data for typical weekdays show that existing site operations generate an average of 20 trips during the high school peak arrival period and 27 trips during the high school peak departure period. The same data indicate that the highest high school arrival period trips (25) occurred on Wednesday, December 5<sup>th</sup> and the highest high school departure period trips (35) occurred on Tuesday, December 11<sup>th</sup>.

For purpose of this analysis and consistent with the Town's methodology for calculating trip generation, the average traffic generated during the typical weekdays was utilized to estimate existing traffic conditions attributable to the current Convent operation at the project site.

## 4.6.2 REGULATORY AND PLANNING FRAMEWORK

### LOS GATOS GENERAL PLAN

The Transportation Element of the 2020 General Plan identifies Main Street in the project vicinity as a “collector” street. Such streets are described as streets that provide circulation within and between neighborhoods, collecting trips from local streets and distributing them to the arterial network. Collectors serve adjoining properties and carry traffic to other collectors and arterials.

The Transportation Element also identifies Main Street as a Class II bikeway (bike lanes), while College Avenue, which extends along the site’s southern boundary, is classified as a Class III bikeway. The Los Gatos Creek Trail is a dedicated pathway for non-motorized activities with a minimum width of 8 feet to accommodate two-way travel. The section of the trail north of Main Street is the only recognized Class I bikeway in Los Gatos. South of Main Street (north of the creek), this trail becomes an unpaved, multi-use trail leading to Lexington Reservoir. In addition, the Flume Trail and Jones Trail are respectively located approximately 500 and 700 feet northwest and southwest of the site. Existing and planned bikeways and trails are discussed in more detail in Section 4.13, Recreation.

Access to the project site is provided by College Avenue, Pageant Way, Reservoir Road, and Prospect Avenue, and these roads are designated as “local” streets in the Transportation Element. These streets carry traffic from individual properties to collector and arterial streets, and are designed to discourage through traffic.

The General Plan also contains policies that pertain to traffic and circulation. Project consistency with policies pertaining to circulation is discussed below.

#### General Plan Transportation Element Policies

#### Project Consistency Analysis

*TRA-1.1 Development shall not exceed transportation capacity.*

As indicated in Impact 4.6-1, the project would have a less-than-significant impact on service level operation of roadways, freeways, and intersections since the project would result in a net decrease in trip generation at the project site. Accordingly, the project would not exceed the transportation capacity of roads in the area.

*TRA-1.3 Evaluate the effects of all circulation and other transportation improvements on air pollution, noise, and use of energy prior to issuing any zoning approval.*

Air quality, noise, and energy impacts associated with operation of the proposed project’s transportation improvements are evaluated in Sections 4.7, Noise, 4.8, Air Quality, and 4.14, Energy, of this EIR. Project-related operational noise and air quality, and energy impacts were determined to be less than significant.

*TRA-3.1 All development proposals shall be reviewed to identify and mitigate project traffic impacts pursuant to the Town’s traffic impact policy.*

The project was reviewed to identify and mitigate traffic impacts pursuant to the Town’s traffic impact policy. Review showed that the project would generate fewer daily trips and fewer AM and PM peak hour trips than the existing conditions. Therefore, in accordance with the Town of Los Gatos Traffic Policy, a Traffic Impact

**General Plan Transportation Element Policies****Project Consistency Analysis**

*TRA-3.2 Review development proposals to ensure that the circulation system and on-site or public parking can accommodate any increase in traffic or parking demand generated by the proposed development, subject to the considerations and findings required by the Town's Traffic Impact Policy.*

*TRA-13.2 Provide an adequate number of parking spaces in all new development.*

*TRA-3.3 All new developments shall be evaluated to determine compliance with the Town's level of service policy for intersections.*

*TRA-3.4 New projects shall not cause the level of service for intersections to drop more than one level if it is a Level A, B, or C and not drop at all if it is at D or below.*

*TRA-3.5 If project traffic will cause any intersection to drop more than one level if the intersection is at LOS A, B, or C, or to drop at all if the intersection is at LOS D or below, the project shall mitigate the traffic so that the level of service will remain at an acceptable level.*

*TRA-3.6 Pedestrian and bicycle safety shall not be compromised to improve or maintain the level of service of an intersection.*

*TRA-3.8 New development shall be required to upgrade public improvements on project frontages to meet current Town standards.*

*TRA-3.9 Developers shall contribute to the cost of the future installation of traffic signals or future traffic signal modifications as a condition of approval.*

Analysis for the proposed project would not be required. In addition, the project would not be subject to the Town of Los Gatos Community Benefit Policy because the project would not result in a net increase of 5 or more peak hour trips.

The project would generate fewer daily trips and fewer AM and PM peak hour trips than the existing site operations. Therefore, in accordance with the Town of Los Gatos Traffic Policy, a Traffic Impact Analysis for the proposed project would not be required. The lots have been designed to support covered and uncovered parking on-site and on public streets.

On-street parking would be available along the site's frontage on Prospect Avenue as well as along the proposed cul-de-sac. The Town would review the adequacy of off-street parking on each lot during the Architecture and Site review process for compliance with the Town's parking standards.

The project was evaluated to determine compliance with the Town's LOS policy for intersections. As indicated in Impact 4.6-1, the project would have a less-than-significant impact on service level operation of local intersections since the project would result in a net decrease in trip generation at the project site during both the AM and PM peak periods as well as the high school peak arrival and departure periods.

As indicated in Impact 4.6-1, the project would have a less-than-significant impact on service level operation of local intersections and no intersection improvements would be required. Therefore, pedestrian or bicycle safety would not be compromised by project implementation.

Frontage improvements along Prospect Avenue include some minor widening north of Reservoir Road to bring this section of Prospect Avenue to Town standards. Other road improvements that would be completed to Town standards include curbs and gutters along the site's Prospect Avenue frontage, a turnaround bulb at the north end of Prospect Avenue, and a new cul-de-sac in the southern portion of the site.

Since the project would generate fewer daily trips and fewer AM and PM peak hour trips than the existing site operations, the project would not be subject to the Traffic Impact Fee Ordinance or the Town of Los Gatos Community Benefit Policy or be required to contribute to

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**General Plan Transportation Element Policies    Project Consistency Analysis**


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the cost of future installation of traffic signals or future traffic signal modifications.

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### 4.6.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based on criteria derived from Appendix G of the *CEQA Guidelines*, an impact is considered significant if the proposed project would:

- 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;
- 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;
- 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;
- Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment);
- Result in inadequate emergency access; or
- Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

Based on the project's location as well as its construction and operational characteristics, no impact is anticipated with respect to one of the above significance criteria:

- *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.* This criterion would not apply to the proposed project since the project site is not located in the vicinity of an airport. The project would not affect air traffic levels or cause any safety risks associated with air traffic patterns, and therefore would have no impact.

#### METHODOLOGY

This section is based on the trip generation study by Hexagon Transportation Consultants, Inc. (2013), which indicates that the project would generate less traffic than the existing operation on the project site.

The Hexagon report was peer reviewed by TJKM Transportation Consultants, the Town's consulting traffic engineer, and TJKM concurred with Hexagon's estimates and conclusions. In addition, TJKM noted that the Hexagon used a conservative approach by not adjusting trip generation estimates for the existing facility (operating at half its capacity) to reflect the full trip generation potential of the existing facilities. Since the project would result in a net traffic decrease when compared to baseline (current) traffic levels currently generated at the site, the project would not degrade intersection levels of service during both the AM and PM peak periods as well as during the peak arrival and departure periods at Los Gatos High School. Therefore, no further analysis of level of service (LOS) operation is required.

### **PROJECT TRIP GENERATION**

The magnitude of traffic produced by a new development is estimated by applying the size of the project to the applicable trip generation rates contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 9<sup>th</sup> Edition.

Based on the ITE average trip generation rates for single-family detached housing (ITE Land Use #210), the proposed project is expected to generate a total of 162 daily trips, 13 AM peak hour trips (3 inbound and 10 outbound), and 17 PM peak hour trips (11 inbound and 6 outbound). Trip generation rates for the specific peak arrival and departure periods of the high school are not available. However, the peak arrival period of the high school coincides with the standard AM peak commute period and project trip generation therefore would be the same during both of these time periods. The peak high school departure period occurs prior to the standard PM peak commute hour. It is expected that trips generated by residential during the standard PM peak commute hour is much greater than during the peak high school departure period. Therefore, to provide a conservative estimate, project trip generation during the peak high school departure period is assumed to be the same as the PM peak commute hour.

Based on the existing and proposed uses for the project site,<sup>2</sup> count data collected at site driveways, and established ITE standards, the project would generate fewer daily trips and fewer AM and PM peak hour trips than the existing site operations and fewer trips during the high school peak hours. Therefore, in accordance with the Town of Los Gatos Traffic Policy, a Traffic Impact Analysis for the proposed project would not be required. In addition, the project would not be subject to the Town of Los Gatos Community Benefit Policy because the project would not result in a net increase in 5 or more peak hour trips.

**Impact 4.6-1: The project would not 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**

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<sup>2</sup> As noted in the setting section above, trip generation estimates for current site facilities use average trips currently generated on-site and conservatively do not factor in additional traffic that could be generated by existing site operations if it were operating at full capacity.

**components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. (Less Than Significant)**

**Construction Impacts.** During proposed demolition of existing facilities, construction of roads and infrastructure, as well as eventual construction of 17 single-family homes, there would be short-term increases in construction-related trucks and vehicles on local streets. Construction-related truck traffic would be generated from hauling of demolition debris off-site, materials deliveries to the site, and workers arriving and leaving the project site during road and infrastructure construction as well as eventual construction of 17 single-family homes.

During the demolition phase, approximately 2,967 cubic yards of debris (consisting of wood, drywall, carpet, vinyl, ceramic, plaster, glass, metal, and other miscellaneous building materials) would be hauled off-site in 67 “high-side” end dumps using 45-cubic yard haul trucks (Buccaneer, 2013). There are approximately up to 83 trees that could also be removed during the demolition and home construction phase, and they are estimated to generate 1,680 cubic yards of green waste debris, which would be off-hauled in approximately 42 “high-side” end dumps.<sup>3</sup> Of the approximately 3,666 cubic yards of concrete/asphalt that would be generated, about 1,736 cubic yards would be crushed and temporarily stored on-site for use as base rock for new roads, driveways, and/or building pads, where appropriate. The remaining 1,930 cubic yards of debris would be off-hauled in 149 end dumps using 13 cubic yard haul trucks. A total of 258 truckloads of demolition debris would be hauled off-site over 40 work days (about two months). In addition, during the grading phase, approximately 2,000 cubic yards of soil would be hauled off-site in 100 truckloads using 20 cubic yard trucks over 60 work days (about three months).

To ensure that construction-related traffic would not increase traffic congestion problems during all phases of project demolition and construction, the Town will require, as a condition of project approval, that a Traffic and Safety Control Plan be prepared by the project applicant to address truck operations on local streets during both the demolition and construction phases. The condition of approval will require that this Plan be subject to review and approval by the Town’s Engineering Department and Police Department as well as the Santa Clara County Fire Department prior to issuance of the grading permit. With required implementation of an approved Traffic and Safety Control Plan during all phases of project-related demolition and construction, potential short-term, construction-related traffic impacts would be less than significant.

A preliminary Traffic and Safety Control Plan addressing the demolition phase has been prepared by the applicant, and it includes the following elements:

- Haul trucks would be required to use on-/off-ramps on State Route (SR) 9 (Los Gatos Saratoga Road) to access the SR 17 freeway, but could use the freeway ramps on Lark Avenue if

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<sup>3</sup> If up to 103 trees would be removed or lost, as estimated by Arbor Resources (see Section 4.3 for more discussion), the same number of haul trucks could accommodate the additional green waste debris associated with the 20 additional trees.

necessary. Haul trucks, however, would be prohibited at all times from using SR 17 freeway ramps on Santa Cruz Avenue.

- The truck access route to/from SR 17 would be SR 9, Los Gatos Boulevard, and Main Street. From Main Street, inbound trucks will travel a short distance on College Avenue, then turn east on Cleland Avenue, immediately south on Reservoir Road, and then turn either north or south on Prospect Avenue to access the site. Outbound (full) trucks return to Main Street by turning south of Prospect Avenue and west on College Avenue.
- Haul trucks would be allowed to operate between 9:00 a.m. and 4:00 p.m., Monday through Friday.
- When school is in session, truck operations on Main Street may be prohibited between 2:15 p.m. and 2:45 p.m., if required by the Town, to allow school-related traffic to dissipate from Main Street and the immediate vicinity.
- If required by the Town, truck operations could also be prohibited during special events.
- Trucks would be required to travel in groups of up to three vehicles at 15-minute intervals. Truck groups shall be staged at a location outside of the Town of Los Gatos.
- One-way traffic control for trucks would be implemented on sections of College Avenue and the entire lengths of Prospect Avenue and Reservoir Road when trucks are traveling on these road sections.
- Flagpersons would be employed at intersections and road sections with limited sight lines for traffic control/safety.
- Prior to the start of construction, all affected residents and emergency services would be notified specifying dates and hours of operation and one-way routing plans.
- Prior to the start of construction, the applicant would hold pre-construction meetings with affected neighbors to review the dates and hours of operation and one-way routing plan.
- In coordination with the Town, the applicant would provide a designated and protected pedestrian lane on the balance of College Avenue, as determined by the Town's Engineering Department and Police Department.
- Prior to the start of project demolition/construction activities, the applicant would post signs at adjacent the creek trail and open space trailheads with information regarding the dates and hours of operation and the one-way routing plans.

**Operational Impacts.** As noted above, the project would generate fewer daily trips and fewer AM and PM peak hour trips and high school peak hour trips than the existing site operations. Therefore, project implementation would not adversely affect the performance of the circulation system, including intersections, streets, and highways/freeways.

Based on the previous field studies by TJKM and ridership data from VTA, it appears that VTA community bus routes (48 and 49) are currently underutilized. Based on these data, Town staff determined that the current utilization rates for these routes are estimated to be less than 15 percent (Town of Los Gatos, 2009). Therefore, increased demand associated with the proposed project is expected to have a less than significant on existing transit service.

There are currently sidewalks along Main Street, College Avenue, and Pageant Way. However, there are no sidewalks on Cleland Avenue, Reservoir Road, Prospect Avenue, and the upper section of College Avenue. Although the project site is located about 0.3 to 0.4 mile from the closest bus stop, pedestrian and bicycle access to the site are limited by the lack of sidewalks on Reservoir Road (the closest route to the site from Main Street) and moderately steep grade. The grade is less steep on College Avenue and there is a sidewalk along a portion of this route, but it is a much longer distance (0.7 to 0.8 mile) to Main Street and the closest bus stop. Pedestrians would be required to share Prospect Avenue, Reservoir Road, Cleland Avenue, and the upper portion of College Avenue with traffic since there are no sidewalks. The project is not expected to generate a significant volume of pedestrian traffic to Main Street due to the moderately steep grade, distance, and/or lack of sidewalks.

There are striped bicycle lanes along Main Street but not on the College Avenue or Reservoir Road routes to the site. Bike traffic would have to share the streets on both of these routes with vehicles. The project is not expected to generate a significant volume of bicycle traffic due to the moderately steep grade and lack of bike lanes in the project vicinity.

Given the low volume of pedestrians and bicyclists that would be generated by the proposed 17 single-family homes, project implementation would not significantly affect the capacities of neighborhood streets providing access to/from Main Street, a less-than-significant impact. Pedestrian and bicycle access to nearby recreational trails (Jones Trail, Flume Trail, Los Gatos Creek Trail) is discussed in more detail in Section 4.13, Recreation.

*Mitigation Measure 4.6-1: None required.*

**Impact 4.6-2: The project would not conflict with the Santa Clara County Congestion Management Program. (Less Than Significant)**

As noted above, the project would generate fewer daily trips and fewer AM and PM peak hour trips than the existing site facilities. Therefore, project implementation would not adversely affect the performance of any CMP-designated intersections or CMP freeway segments, a less-than-significant impact.

*Mitigation Measure 4.6-2: None required.*

**Impact 4.6-3: The project would not substantially increase hazards due to a design feature or incompatible uses. (Less Than Significant)**

Access to the site facilities is currently provided by six driveways along Prospect Avenue. These driveways are currently accessed multiple times each day and night (weekdays and weekends) by staff

vehicles, visitors, retreat/conference attendees, and delivery trucks. With project implementation, these six driveways would be replaced with nine driveways to individual single-family homes and one cul-de-sac intersection on Prospect Avenue that would provide access to eight single-family homes. Although the number of driveways would increase, safety hazards are expected to decrease since there would be fewer vehicles accessing on-site driveways compared to the existing facilities which are accessed by delivery trucks and staff vehicles during three shift changes that occur 24 hours per day, seven days per week. Traffic accessing the project's residential driveways would follow patterns more similar to existing residential uses. When compared to baseline traffic conditions with existing site operations, the proposed circulation design would not result in a substantial increase in on-site or off-site traffic safety hazards due to a design feature. Therefore, potential traffic safety impacts would be less than significant.

*Mitigation Measure 4.6-3: None required.*

**Impact 4.6-4: The project would not result in inadequate emergency access. (Less Than Significant)**

Both primary and secondary emergency vehicle access to the project site is already available via the College Avenue and Reservoir Road access routes. On-site roadways currently provide emergency vehicles with access to all on-site buildings and facilities. With project implementation, these access routes would continue to provide primary and secondary emergency access to future project residents.

However, during the demolition phase of the project, emergency access to areas within the project site could be limited once paved driveways on the site are demolished. To ensure that emergency access is adequately maintained during all phases of project demolition and construction, the Town will require, as a condition of project approval, that the Traffic and Safety Control Plan address emergency access to all on-site areas during all phases of demolition and construction. This Plan will be subject to review and approval by the Santa Clara County Fire Department as well as the Town's Engineering Department and Police Department. With required implementation of an approved Traffic and Safety Control Plan during all phases of project-related demolition and construction, potential short-term, construction-related traffic impacts on emergency access would be less than significant.

*Mitigation Measure 4.6-4: None required.*

**Impact 4.6-5: The project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. (Less Than Significant)**

As discussed in Section 4.6.2 above, the proposed project would not conflict with any of the applicable General Plan goals or policies related to transportation or decrease the performance or safety of such facilities. As discussed under Impact 4.6-1, the project is not expected to result in a substantial increase transit riders, pedestrians, or bicyclists. Therefore, project implementation would not conflict with public transit, bicycle, or pedestrian policies, plans, programs, or safety, and this impact would be less than significant.

*Mitigation Measure 4.6-5: None required.*

**REFERENCES – TRANSPORTATION AND TRAFFIC**

Buccaneer Demolition, 2013. *Demolition Debris Calculation and Equipment Survey, Prepared for Sisters of the Holy Names of Jesus and Mary.* July 22, 2013.

Hexagon Transportation Consultants, Inc., 2012. *Trip Generation Study for the Existing and Proposed Land Uses at the Sisters of the Holy Names of Jesus and Mary Property in Los Gatos, California.* December 14, 2012.

Hexagon Transportation Consultants, Inc., 2013. *Trip Generation Study for the Existing and Proposed Land Uses at the Sisters of the Holy Names of Jesus and Mary Property in Los Gatos, California.* April 30, 2013. (Included as Appendix F of this EIR)

TJKM Transportation Consultants, 2013. *Peer Review of Trip Generation Study for Existing and Proposed Land Uses for “Sisters of the Holy Names of Jesus and Mary” property site in the Town of Los Gatos, CA.* June 18, 2013. (Included as Appendix F of this EIR)

Town of Los Gatos, 2010. *2020 General Plan*, September 20. Available online at: <http://www.town.los-gatos.ca.us/index.aspx?nid=27>.

## 4.7 NOISE AND VIBRATION

An environmental noise assessment was prepared for this project by Illingworth & Rodkin, Inc. in July 2013, and it is included in **Appendix G** of this EIR. The noise assessment was peer reviewed by GGC for technical accuracy and noise data from that report is used in this section to assess CEQA noise impacts.

### 4.7.1 ENVIRONMENTAL SETTING

#### NOISE DESCRIPTORS

Sound is described in terms of loudness (amplitude) and frequency (pitch). The standard unit of measurement of the loudness of sound is the decibel (dB). Since the human ear is not equally sensitive to sound at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human sensitivity. The A-weighted decibel scale (dBA) performs this compensation by differentiating among frequencies in a manner approximating the sensitivity of the human ear.

Decibels are based on a logarithmic scale. The logarithmic scale compresses the wide range in sound pressure levels to a more usable range of numbers in a manner similar to the Richter scale used to measure earthquakes. In terms of human response to noise, a 3-dBA noise level increase is barely perceived by most people, while a 5-dBA increase is readily noticeable and a 10-dBA increase is perceived twice as loud. Everyday sounds normally range from 30 dBA (quiet rural nighttime) to 110 dBA (rock band). Noise descriptors are defined in more detail in Appendix G and examples of various sound levels in different environments are illustrated in **Table 4.7-1**.

Variations in noise exposure over time are typically expressed in terms of a steady-state energy level (called  $L_{eq}$ ) that represents the acoustical energy of a given measurement.  $L_{eq}(24)$  is the steady-state acoustical energy level measured over a 24-hour period. Because community receptors are more sensitive to unwanted noise intrusion during the evening and at night, state law requires that, for planning purposes, an artificial dBA increment be added to “quiet time” noise levels to form a 24-hour noise descriptor called the Community Noise Equivalent Level (CNEL). CNEL adds a 5-dBA “penalty” during the evening hours (7 p.m. to 10 p.m.) and a 10-dBA penalty during the night hours (10 p.m. to 7 a.m.). Another 24-hour noise descriptor, called the day-night noise level (DNL or  $L_{dn}$ ), is similar to CNEL. Both CNEL and DNL add a 10-dBA penalty to all nighttime noise events between 10 p.m. and 7 a.m., but DNL does not add the evening 5-dBA penalty. In practice, DNL and CNEL usually differ by less than 1 dBA at any given location for transportation noise sources.  $L_{max}$  is the maximum, instantaneous noise level registered during a measurement period.

#### VIBRATION DESCRIPTORS

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction-related ground-borne vibration levels. Because of the impulsive nature of such activities, the use of the peak

**TABLE 4.7-1**  
**TYPICAL NOISE LEVELS IN THE ENVIRONMENT**

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
	<b>110 dBA</b>	Rock band
Jet fly-over at 1,000 feet		
	<b>100 dBA</b>	
Gas lawn mower at 3 feet		
	<b>90 dBA</b>	
Diesel truck at 50 feet at 50 mph		Food blender at 3 feet
	<b>80 dBA</b>	Garbage disposal at 3 feet
Noisy urban area, daytime		
Gas lawn mower, 100 feet Commercial area	<b>70 dBA</b>	Vacuum cleaner at 10 feet Normal speech at 3 feet
Heavy traffic at 300 feet	<b>60 dBA</b>	Large business office
Quiet urban daytime	<b>50 dBA</b>	Dishwasher in next room
Quiet urban nighttime Quiet suburban nighttime	<b>40 dBA</b>	Theater, large conference room
	<b>30 dBA</b>	Library
Quiet rural nighttime	<b>20 dBA</b>	Bedroom at night, concert hall
	<b>10 dBA</b>	Broadcast/recording studio
	<b>0 dBA</b>	

Source: Illingworth & Rodkin, Inc. (2013)

particle velocity descriptor (PPV) has been routinely used to measure and assess ground-borne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans. The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of

0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

Structural damage can be classified as cosmetic only, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structural damage to the building. Construction-induced vibration that can be detrimental to the building is very rare and has only been observed in instances where the structure is at a high state of disrepair and the construction activity occurs immediately adjacent to the structure.

Vibrations caused by construction activities can be interpreted as energy transmitted in waves through the ground. These energy waves generally dissipate with distance from the vibration source (e.g., pile driving or sheet pile driving). Energy is lost during the transfer of energy from one particle to another, and vibration becomes less perceptible as distance from the source increases. Vibration attenuates as a function of the distance between the source and receptor. Vibration emanating from a single location (a “point source”) attenuates at a rate of approximately 50% for each doubling of distance from the source (termed the “inverse square law”). This calculation tends to underestimate attenuation, and thus provides a “worst-case” estimate of vibration at the receptor.

Vibration is an oscillatory motion that can be described in terms of displacement, velocity, or acceleration. Peak particle velocity (PPV) is defined as the maximum instantaneous positive or negative peak of the vibration signal. PPV is used to assess the potential for damage to buildings and structures and is expressed in inches per second (in/sec).

The responses of human receptors and structures to vibration are influenced by a combination of factors, including soil/rock type, distance from the source, duration, and the number of perceived vibration events. Energy transmitted through the ground as vibration can reach levels that cause structural damage; however, humans are very sensitive to vibration, and the vibration amplitudes that can be perceived by humans are well below the levels that cause architectural or structural damage.

Some reference values for vibration are as follows: (1) a freight train passing at a distance of 100 feet can result in vibrations of 0.1 in/sec PPV, and (2) a strong earthquake can produce vibrations in the range of 10 in/sec PPV.

### EXISTING NOISE ENVIRONMENT

To characterize the existing noise environment in the site vicinity, two long-term (LT) measurements and one short-term (ST) measurement were taken in December 2012. Measurement locations are indicated in **Figure 4.7-1**. Long-term measurement LT-1 is located in the northern portion of the site, approximately 800 feet from the SR 17 freeway (north of the Seraphine and Regional Office Buildings and approximately where the building pad for Lot 16 is proposed). Short-term measurement ST-1 is located



on the west side of the site, approximately 1,000 feet from the SR 17 freeway (approximately where the building pad for Lot 8 is proposed). Long-term measurement LT-2 is located on the eastern site perimeter on Prospect Avenue (adjacent to Prospect Avenue on proposed Lot 13). Summaries of noise data collected at these locations are included in Figures 2 through 13 of Appendix G.

A summary of noise measurement results are presented in **Table 4.7-2** and measurement locations are indicated in Figure 4.7-1. Day/Night noise levels at Location LT-1 ranged from 61 to 63 dBA DNL, while noise levels on the eastern perimeter of the site averaged 50 dBA DNL.

**TABLE 4.7-2**  
**SUMMARY OF NOISE MEASUREMENT RESULTS**

Measurement		Noise Level in dBA		
		Leq (day)	Leq (night)	DNL
LT-1	North of Seraphine Building (Proposed Lot 16 Building Pad)			
	– Weekdays	56–62	47–61	62–63
	– Weekends			61–62
ST-1	South of Seraphine Building (Proposed Lot 8 Building Pad)	52		
LT-2	Adjacent to Prospect Avenue (near Proposed Lot 13)			50 <sup>a</sup>
	– Weekdays	56–62	37–51	53–61
	– Weekends	46–57	36–49	50–53

NOTES: See Figure 4.7-1 for noise measurement locations.

<sup>a</sup> Noise measurements taken at LT-2 were affected by local residential construction activities, but less so on Sunday, December 9, 2012. This DNL is based on measurements taken on Sunday, December 9, 2012.

SOURCE: Illingworth & Rodkin, Inc., 2013

## SENSITIVE RECEPTORS

Human response to sound is highly individualized. Annoyance is the most common issue regarding community noise. The percentage of people claiming to be annoyed by noise generally increases with the environmental sound level. However, many factors also influence people’s response to noise. The factors can include the character of the noise, the variability of the sound level, the presence of tones or impulses, and the time of day of the occurrence. Additionally, non-acoustical factors, such as the person’s opinion of the noise source, the ability to adapt to the noise, the attitude towards the source and those associated with it, and the predictability of the noise, all influence people’s response. As such, response to noise varies widely from one person to another and with any particular noise, individual responses could range from “not annoyed” to “highly annoyed.”

Certain land uses are particularly sensitive to noise, including schools, hospitals, rest homes, long-term medical and mental care facilities, and parks and recreation areas. Residential areas are also considered noise sensitive, especially during the nighttime hours. Existing sensitive receptors located in the project vicinity are limited to single-family residential uses, which surround the project site.

## 4.7.2 REGULATORY AND PLANNING FRAMEWORK

Local noise issues are addressed through implementation of general plan policies, including noise and land use compatibility guidelines, and through enforcement of noise ordinance standards. Noise ordinances regulate such sources as mechanical equipment and amplified sounds as well as prescribe hours of construction-related equipment operation. Federal, state, and local noise guidelines and ordinances that are relevant to the proposed project are summarized below.

### FEDERAL

There are no federal noise guidelines or regulations that pertain to residential uses.

### STATE

The *State of California Office of Planning and Research Noise Element Guidelines* (Guidelines) include recommended interior and exterior noise level standards for local jurisdictions to identify and prevent the creation of incompatible land uses due to noise. These Guidelines describe the compatibility of various land uses with a range of environmental noise levels in Community Noise Level Equivalents (CNEL) and Day-Night Noise Levels (DNL or  $L_{dn}$ ) and they are summarized in **Table 4.7-3**. As indicated in this table, noise levels of up to 60 dBA (CNEL or DNL) are considered to be “normally acceptable” for single-family residential uses. When compared to these recommended standards, existing noise levels in the eastern and southern portions of the site (50 to 61 dBA, DNL) are generally considered to be “normally acceptable” for the single-family residential uses on the site, while noise levels on northwestern portion of the site (61 to 64 dBA, DNL) are considered to be “conditionally acceptable” for single-family residential uses.

### LOCAL

**Los Gatos General Plan.** The Noise Element of the Los Gatos 2020 General Plan establishes goals and policies for reducing noise levels in the Town. Policies aimed at reducing noise levels must address specific sources of unwanted noise, as well as noise-sensitive receptors. The Noise Element contains guidelines for use in land use planning to reduce future noise and land use incompatibilities (Figure NOI-1 of the Noise Element). These guidelines are based on the above state guidelines (see Table 4.3-1) and define acceptability by land use. The following guidelines from Figure NOI-1 of the Noise Element would pertain to the project:

Residential:  $\leq 60$  dB (DNL or CNEL), Normally Acceptable  
 55 to 70 dB (DNL or CNEL), Conditionally Acceptable  
 70 to 75 dB (DNL or CNEL), Normally Unacceptable  
 $\geq 75$  dB (DNL or CNEL), Clearly Unacceptable

Los Gatos also established outdoor noise limits in the Noise Element of the 2020 General Plan, which represent long-range community goals for different land use designations within the town. **Table 4.7-4** presents the Outdoor Noise Limits that are listed in Table NOI-2 of the Noise Element. They indicate that

**TABLE 4.7-3**  
**LAND USE COMPATIBILITY FOR COMMUNITY NOISE ENVIRONMENTS**

Land Use Category	Community Noise Exposure (DNL or CNEL, dBA)			
	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Residential-Low Density, Single-Family, Duplex, Mobile Homes	50 - 60	55 - 70	70 - 75	75 - 85
Residential - Multiple Family	50 - 65	60 - 70	70 - 75	70 - 85
Transient Lodging - Motel, Hotels	50 - 65	60 - 70	70 - 80	80 - 85
Schools, Libraries, Churches, Hospitals, Nursing Homes	50 - 70	60 - 70	70 - 80	80 - 85
Auditoriums, Concert Halls, Amphitheaters	NA	50 - 70	NA	65 - 85
Sports Arenas, Outdoor Spectator Sports	NA	50 - 75	NA	70 - 85
Playgrounds, Neighborhood Parks	50 - 70	NA	67.5 - 77.5	72.5 - 85
Golf Courses, Riding Stables, Water Recreation, Cemeteries	50 - 70	NA	70 - 80	80 - 85
Office Buildings, Business Commercial and Professional	50 - 70	67.5 - 77.5	75 - 85	NA
Industrial, Manufacturing, Utilities, Agriculture	50 - 75	70 - 80	75 - 85	NA

CNEL = community noise equivalent level; NA = not applicable

**NORMALLY ACCEPTABLE:** Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

**CONDITIONALLY ACCEPTABLE:** New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features have been included in the design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning, will normally suffice.

**NORMALLY UNACCEPTABLE:** New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise-insulation features must be included in the design.

**CLEARLY UNACCEPTABLE:** New construction or development should generally not be undertaken.

SOURCE: Town of Los Gatos, 2011 (Figure NOI-1 of the Noise Element).

**TABLE 4.7-4**  
**TOWN OUTDOOR NOISE LIMITS**

Land Use	Max DNL Value	Max Leq(24) Value	Comparable Noise Source	Response
Residential	55 dBA	--	Light auto traffic (100 feet)	Quiet
Commercial	--	70 dBA	Freeway traffic (50 feet)	Telephone use difficult
Industrial	--	70 dBA	Freeway traffic (50 feet)	Telephone use difficult
Intensive Open Space (Developed Park)	--	55 dBA	Light auto traffic (100 feet)	Quiet
Passive Open Space (Nature Park)	--	50 dBA	Light auto traffic (100 feet)	Quiet
Hospital	--	55 dBA	Light auto traffic (100 feet)	Quiet
Education	--	55 dBA	Light auto traffic (100 feet)	Quiet

SOURCE: Town of Los Gatos, 2011 (Table NOI-2 of the Noise Element).

noise levels of 55 dB DNL are the desired noise level for residential uses.<sup>1</sup> However, the Town's Noise Element (Policy NOI-1.3) states that these noise limits represent the "long range community aspirations" and acknowledges that such goals may not be attainable at this time.

The Noise Element of the General Plan contains policies that pertain to noise. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential noise impacts related to potential conflicts with policies designed to prevent environmental impacts. Project consistency with those guidelines is discussed in the following policy-project consistency discussion:

General Plan Policies	Project Consistency Discussion
<p><i>Noise Element</i></p> <p><i>NOI-1.1: The Town, as part of the Environmental Review process, shall require applicants to submit an acoustical analysis of projects. All input related to noise levels shall use the adopted standard of measurement shown in Table NOI-2 (see Table 4.7-4 in this EIR). Noise impacts of new development shall be evaluated in terms of any increase of the existing ambient noise levels and the potential for adverse noise and groundborne vibrations impacts on nearby or adjacent properties. The evaluation shall consider short-term construction noise and on-going operational noise.</i></p>	<p>A detailed environmental noise assessment was prepared for the project by Illingworth &amp; Rodkin, Inc. (2013) and it is included as Appendix G of this EIR. Findings of the assessment are presented below under Impacts 4.7-1 and 4.7-4, and they address increases in noise and vibration levels at adjacent properties due to proposed demolition, construction, and operation of the proposed project. The detailed acoustical assessment determined that the project's construction-related and operational noise impacts would be less than significant with implementation of Mitigation Measure 4.7-1, administrative and source controls, and Mitigation Measure 4.7-4, incorporation of noise attenuation measures into the design of future residences on these lots.</p>
<p><i>NOI-1.2: The Town shall maintain the noise ordinance standards.</i></p>	<p>With implementation of Mitigation Measure 4.7-4, the Town would be able to maintain the noise ordinance standards. As indicated in Impact 4.7-4, noise levels currently exceed the Town's 55 dB DNL (<math>L_{dn}</math>) noise limit for residential uses in the northwestern portion of the site (proposed lots 14-17). However, this significant noise compatibility impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.7-4, incorporation of noise attenuation measures into the design of future residences on these lots.</p>
<p><i>NOI-1.3: Employ the <math>L_{dn}</math> scale for the evaluation of outdoor noise for residential land uses and the <math>Leq</math> scale for evaluation of outdoor noise for non-residential uses, as shown in Table NOI-2 (see Table 4.7-2 in this EIR). Pursue the outdoor noise limits shown in Table NOI-2 as representing the long range community aspirations and work toward their accomplishment, even though some may be presently unattainable.</i></p>	<p>The detailed noise assessment, included as Appendix G of this EIR, evaluates the proposed residential project's noise compatibility impact on the DNL (<math>L_{dn}</math>) scale (Impact 4.7-4). The assessment determined that the project's noise compatibility impact would be less than significant with implementation of Mitigation Measure 4.7-4, incorporation of noise attenuation measures into the design of future residences on Lots 14-17.</p>
<p><i>NOI-2.1: Evaluate the potential for existing ambient</i></p>	

<sup>1</sup> The DNL is a time-weighted noise level where a 10-dB penalty is added to nighttime  $Leq$  noise levels.

**General Plan Policies****Project Consistency Discussion**

*and/or intrusive noise to adversely affect new development.*

*NOI-2.2: Require all noise-sensitive developments adjacent to or within an area where noise levels exceed community aspirations to include a noise study and*

*recommendations for reducing noise impact to an acceptable level.*

*NOI-5.1 Protect residential areas from noise by requiring appropriate site and building design, sound walls, and landscaping and by the use of noise attenuating construction techniques and materials.*

*NOI-7.1: Enforce noise limits and monitor compliance with noise standards.*

*NOI-6.1: The Town shall not approve land use patterns and traffic patterns that expose sensitive land uses or sensitive noise receptors to unacceptable noise levels.*

*NOI-6.2 Review transportation improvement plans to ensure that noise-sensitive areas are not exposed to unacceptable noise levels.*

Project implementation would result in a decrease in traffic generated at the site, reducing traffic noise levels along local neighborhood streets providing access to the site (see Impact 4.7-3 for more discussion). Policy NOI-6.1 would not prohibit the Town from approving the proposed project since the project's impacts on the surrounding neighborhoods were determined to be less than significant with implementation of mitigation measures specified in this section.

**Los Gatos Noise Ordinance.** The Town Noise Ordinance (Chapter 16 of the Town Municipal Code) specifies noise limits for construction activities (Section 16.20.035). The ordinance restricts construction activities to the hours of 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 7:00 p.m. on weekends and holidays. This ordinance limits construction noise generation by requiring construction to meet either of the following: (1) no individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet from the piece of equipment; or (2) the noise level at any point outside of the property plane (boundary) cannot exceed eighty-five (85) dBA.

### 4.7.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA AND THRESHOLDS

Based on criteria derived from Appendix G of the *CEQA Guidelines*, an impact is considered significant if the proposed project would:

- Expose people to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;
- Expose people to or generate excessive groundborne vibration or groundborne noise levels;
- Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;

- Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels permissible under the Town’s Noise Ordinance;
- 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, expose people residing or working in the project area to excessive noise levels; or
- For a project within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels.

The Town of Los Gatos Noise Ordinance provides thresholds for stationary noise impacts, but does not have thresholds that evaluate noise increases in traffic and transportation-related noise. The following criteria are used by Town staff for determining if increases in project-level and cumulative traffic noise are significant:<sup>2</sup>

- An increase of the existing ambient noise levels by 5 dBA or more, and remain below 55 dB (DNL);
- An increase of the existing ambient noise level by 3 dBA or more, and causes the ambient level to equal or exceed 55 dBA (DNL); or
- An increase of the existing ambient noise level by 1 dBA or more, where the ambient level is greater than 55 dBA (DNL).

With respect to vibration, the American Association of State Highway and Transportation Officials (AASHTO) Standard R 8-96 (AASHTO, 2004) describes three general categories of damage to buildings from vibration: 1) Threshold cracking; 2) Architectural or Minor Damage; and 3) Major Damage. Both Threshold and Minor damage include cracks in room interior surfaces that do not affect the strength or structural integrity of the structure. The term “threshold cracking” is defined as the highest vibration amplitude at which no cosmetic, minor, or major damage occurs. This may include “threshold cracks” as hairline cracks in room walls that occur at the lowest vibration amplitudes. Based on the AASHTO guidelines, a threshold damage criterion of 0.5 inches/second, peak particle velocity (in/sec, PPV) is appropriate to evaluate vibration impacts by transient and irregular sources. The California Department of Transportation also uses a vibration limit of 0.5 in/sec, PPV for buildings structurally sound and designed to modern engineering standards.<sup>3</sup> Since existing structures located adjacent to or near the project site are built to modern engineering standards (i.e., no historic structures), this threshold is applied in this analysis for transient vibration.

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<sup>2</sup> These thresholds are derived from the Caltrans Technical Noise Supplement (November 2009) and the Federal Interagency Committee on Noise, Federal Agency Review of Selected Airport Noise Analysis Issues (August 1992) to specifically address noise generated from transportation related sources. They were also applied in the Los Gatos 2020 General Plan EIR.

<sup>3</sup> The California Department of Transportation also uses a lower vibration limit of 0.3 in/sec, PPV for buildings that are found to be structurally sound but where structural damage is a major concern and a conservative limit of 0.08 in/sec, PPV for historic buildings or buildings that are documented to be structurally weakened (Illingworth & Rodkin, 2013).

Based on the project's location as well as its construction and operational characteristics, no impacts are anticipated with respect to the above criteria:

- *Expose people to or generate excessive groundborne noise levels.* Groundborne noise refers to a condition where noise is experienced inside a building or structure as a result of vibrations produced outside of the building and transmitted as ground vibration between the source and receiver. Groundborne noise can be problematic in situations where the primary airborne noise path is blocked, such as in the case of a subway tunnel passing in close proximity to homes or other noise-sensitive structures. This criterion would not apply to the project as these conditions do not exist on or near the site.
- *For a project located within an airport land use plan area, or, where such a plan has not been adopted, in an area within 2 miles of a public airport or public use airport, expose people residing or working in the area to excessive noise levels.* This criterion would not apply to the proposed project since the project site is not located within an airport land use plan area or within two miles of a public airport or public use airport. Therefore, the project would not result in any long-term exposure of construction workers or project employees to excessive airport-related noise levels.
- *For a project located in the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels.* This criterion would not apply to the proposed project since the project site is not located in the vicinity of a private airstrip. Therefore, the project would not result in any long-term exposure of construction workers or project employees to excessive airport-related noise levels.

## METHODOLOGY

The noise impact assessment evaluates short-term (temporary) impacts associated with project construction as well as long-term (permanent) impacts resulting from project operation. For construction noise, the potential for impacts is assessed by considering several factors, including the proximity of construction-related noise sources to sensitive receptors, typical noise levels associated with construction equipment (including construction-related vehicles), the potential for construction noise levels to interfere with adjacent residential activities, the duration that sensitive receptors would be affected, and whether proposed activities would occur outside the construction time limits specified in the Los Gatos Noise Ordinance. For operational noise, this impact evaluation determines the potential for impact by assessing long-term noise increases from project-related traffic increases on local roadways.

To address the CEQA significance criterion regarding “substantial temporary or periodic noise increases in ambient noise levels” for construction noise, a “substantial” noise increase is defined as an increase in noise to a level that causes interference with land use activities at nearby sensitive receptors. One indicator that construction noise could interfere with daytime activities would be speech interference, and an indicator that construction noise could interfere with nighttime activities would be sleep interference. Since project construction is proposed to occur only during the daytime hours, only the speech

interference threshold is applied in this analysis to define potential “substantial” noise impacts. Speech interference is an indicator of impact on typical daytime and evening activities. A speech interference threshold, in the context of impact duration and time of day, is used to identify substantial increases in noise resulting from temporary construction activities. Noise peaks generated by construction equipment could result in speech interference at nearby residences if the noise level in the interior of the building exceeds 45 to 60 dBA. A typical building can reduce noise levels by 25 dBA with the windows closed (U.S. Environmental Protection Agency (EPA), 1974).

Since construction would occur only during the day and windows could be opened during the evenings and night, an exterior noise level of 85 dBA ( $L_{eq}$ ) at receptors would maintain an interior noise environment of 60 dBA with windows closed during the day, which is considered acceptable on a short-term basis. It should be noted that such noise levels would be sporadic rather than continuous in nature, because different types of construction equipment would be used throughout the construction process. This noise impact assessment estimates noise levels associated with proposed project construction and compares daytime construction noise levels at sensitive receptors against the speech interference threshold.

To address the CEQA significance criterion regarding “noise levels in excess of standards established in the local general plan or noise ordinance,” this EIR considers the noise limits specified in the Los Gatos Noise Ordinance. For this analysis, a noise impact is considered significant if project construction activities extended beyond ordinance time limits for construction or construction-related noise levels exceed the ordinance noise level standards, specifically: (1) construction activity is limited to 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 7:00 p.m. on weekends and holidays; and (2) each individual piece of equipment cannot produce a noise level exceeding 85 dBA at 25 feet from the piece of equipment or noise from all construction activity cannot exceed 85 dBA at the property line.

Project-related excavation and construction activities could result in vibration that could disturb nearby residents and cause cosmetic damage to existing adjacent buildings or structures. The assessment of vibration impacts evaluates whether construction would result in “excessive groundborne vibration.” In general, cosmetic or threshold damage to residential buildings can occur at vibrations over 0.5 in/sec PPV (Caltrans, 2004). The impact analysis presented below uses standard analytical methodologies such as estimating vibration levels at sensitive receptors for a given vibration source and setback distance; comparing the estimated vibration level to the 0.5 in/sec PPV threshold for cosmetic damage to structures; and providing mitigation where applicable.

## CONSTRUCTION NOISE

**Impact 4.7-1: Project construction could cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project due to operation of heavy equipment during construction. (Less Than Significant With Mitigation)**

**On-site Demolition/Construction Activities.** Project implementation would require the demolition of several buildings (including Marian Building, Siena Building, Cortona Building, Seraphine Building, Stone House, Regional Office and miscellaneous sheds and support buildings) and miscellaneous site improvements (paving, walkways, decks). Demolition would utilize heavy equipment including dump trucks, water trucks, a track mounted mobile crushing plant, backhoes, track loaders, excavators, and skid steer loaders. Demolition debris would be off-hauled by truck, although some concrete debris would be crushed on-site and used as base rock for new roads, driveways and building pads. Demolition activities would occur over approximately two months (40 work days). In addition, during the grading phase, approximately 2,000 cubic yards of soil would be hauled off-site in 100 truckloads using 20 cubic yard trucks over 60 work days).

The construction schedule for the 17 single-family homes is not known at this time and would depend on whether each lot is sold individually and developed by each lot owner or some or all of the project lots are sold and developed by a developer or several developers. Construction activities proposed for similar projects typically include lot grading and improvements, construction of the building shells, interior finishing, and landscaping. Construction equipment such as water trucks, scrapers, compactors, bulldozers, excavators, backhoes, loaders, augers, concrete trucks, skid steer loaders, and assorted other hand tools and professional grade equipment would likely be used.

The highest maximum instantaneous noise levels generated by project construction activities would typically range from about 90 to 95 dBA  $L_{max}$  at a distance of 50 feet from the noise source. Typical hourly average construction generated noise levels are about 81 dBA to 88 dBA  $L_{eq}$  measured at a distance of 50 feet from the center of the construction site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction generated noise levels drop off at a rate of about 6 dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors. The potential for construction-related noise to adversely affect nearby residential receptors would depend on the location and proximity of construction activities to these receptors. Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), construction occurs in areas immediately adjoining noise sensitive land uses, or when construction durations last over extended periods of time.

The Town Noise Ordinance (Chapter 16, Section 16.20.035) restricts construction activities to the hours of 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 7:00 p.m. on weekends and holidays. The Noise Ordinance recognizes that construction activities undertaken during daytime hours are a typical part of living in an urban environment and do not cause a substantial increase or undue disruption. Even gasoline-powered lawn mowers and other power equipment used by homeowners to keep up their homes and yards generate noise levels that would be unacceptable during nighttime hours. According to this ordinance (Section 16.20.035), noise from construction must meet one of the following noise limitations: (1) either no individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at

twenty-five (25) feet from the piece of equipment; or (2) the noise level at any point outside of the property boundary cannot exceed eighty-five (85) dBA.

The closest noise-sensitive receptors are residences located along the eastern site boundary. There are approximately nine residences on the east side of Prospect Avenue, and all but one are located approximately 70 feet or more from the eastern site boundary and over 100 feet from proposed conceptual building footprints; the existing residence (88 Prospect Avenue) located adjacent to proposed Lot 17 would be approximately 35 feet from the proposed conceptual building footprint on Lot 17. There are three residences to the south and they are located as close as 30 to 90 feet from the southern project boundary and as close as approximately 90 feet from the conceptual building footprint on Lot 4 and 100 feet from conceptual footprints on Lots 1 and 3. There are approximately 14 residences to the west and north (fronting on College Avenue) that are located at least 200 feet or more and downslope of proposed conceptual building footprints. For purposes of this analysis, the smallest of the range of residential setbacks is applied in this analysis in order to reflect the greatest impact (worst-case condition).

During proposed building demolition, the closest residence (175 Prospect Avenue) is located as close as approximately 90 feet from the Marian Building, the closest existing building to Prospect Avenue. Also, demolition of the tennis court would involve operation of heavy equipment as close as 25 feet from an existing residence (88 Prospect Avenue). At a distance of 90 feet, noise generated by operation of heavy equipment could be maintained at acceptable levels (interior noise level of 60 dBA  $L_{eq}$ ) with the windows closed. However, operation of heavy equipment at the tennis court would likely exceed the ordinance limit of 85 dBA at the closest residence, a significant impact. Required compliance with the ordinance noise limit (85 dBA at 25 feet or at the property boundary) would ensure that an acceptable interior noise level of 60 dBA  $L_{eq}$  could be maintained at this residence, reducing this impact to less than significant.

During the two-month demolition phase, concrete debris would be crushed on-site and temporarily stored on the site for use as base rock for new roads, driveways, and/or building pads where appropriate. Based on noise measurements conducted for other projects, concrete crushers typically generate noise levels of approximately 85 dBA at 50 feet. Assuming the crusher is located at least 50 feet from any project boundary, noise generated by the crusher would comply with the Noise Ordinance limit of 85 dBA at the property boundary. The effects of noise from the concrete crusher could be minimized by locating it in the center of the site (west of the Siena Building), where it would be closest to buildings being demolished, buildings to be demolished and topography or material stockpiles could help shield surrounding residences from noise generated by the concrete crusher, and it would be located at a point farther away from all surrounding residential receptors.

During road construction and installation of utilities infrastructure, the two existing residences at the north end of Prospect Avenue (87 and 88 Prospect Avenue) would be subject to the highest noise levels because they would be located as close as 50 feet from the proposed turnaround bulb. The existing residence (175 Prospect Avenue) would be the closest residence to the proposed southern cul-de-sac. At distances of 50 to 70 feet, operation of heavy equipment would likely exceed the ordinance limit of 85 dBA, a significant

impact. Required compliance with the ordinance noise limit (85 dBA at 25 feet or at the property boundary) would ensure that an acceptable interior noise level of 60 dBA  $L_{eq}$  could be maintained at this residence, reducing this impact to less than significant.

In general, during times when heavy construction equipment operates closer than 100 feet from the closest residential receptors, equipment noise would have the potential to occasionally exceed the 85-dBA ordinance limit and 60-dBA interior threshold. These exceedances would be sporadic (not continuous) in nature, limited in duration, and would occur primarily when certain types of heavy equipment near a given receptor (i.e., road work along the eastern site frontage, demolition of the tennis court, and home construction on Lot 17). Despite the limited duration of such construction operations and associated noise exceedances at any given receptor, adjacent residents could be subject to occasional noise disturbances over the two-month demolition and 19-month construction periods, a significant impact. However, compliance with ordinance time limits and the 85-dBA noise limit at 25 feet or at the property boundary, as well as implementation of Mitigation Measure 4.7-1, which requires implementation of administrative and source controls (i.e., using properly operating and maintained mufflers and other state-required noise attenuation devices) and designation of a Noise Disturbance Coordinator, the effects of short-term noise increases associated with project demolition/construction activities would be reduced to less than significant.

**Off-site Truck Traffic.** Truck noise levels depend on vehicle speed, load, terrain, and other factors. The effects of construction-related truck traffic would depend on the level of background noise already occurring at a particular receptor site. In quiet noise environments, such as most quiet residential streets ( $L_{eq}$  averaging 50 dBA), one truck per hour would be noticeable, even though such a low volume would not measurably increase noise levels. In slightly noisier environments ( $L_{eq}$  averaging 60 dBA), the threshold level is higher and 10 trucks per hour would be required to noticeably increase the noise exposure. In moderately noisy environments ( $L_{eq}$  averaging 70 dBA), a noise increase would be perceptible with the addition of 100 trucks per hour (Caltrans, 1998). Based on noise measurements collected on-site (see Table 4.7-2), the noise environment is quiet along Reservoir Road and Prospect Avenue (where one truck would be noticeable), while the noise environment is slightly noisier along College Avenue due to influence of SR 17 freeway noise (where up to 10 trucks per hour could be required to noticeably increase noise levels).

Haul truck volumes associated with the proposed project would vary from day to day, with the highest volumes generally occurring during the demolition phase. Demolition waste is proposed to be hauled off-site in 45-cubic yard haul trucks (Buccaneer, 2013). A total of 258 truckloads of demolition debris would be hauled off-site over the approximately 40-work day period and an additional 100 truckloads of soil would be off-hauled over 60 works days, resulting in an average of approximately 1 truck per hour (6.5 trucks/day over 40 work days during demolition and 1.7 trucks/day over 60 work days during grading). Since the haul truck route is proposed to be a one-way loop (Reservoir Road for inbound trucks and Prospect Avenue/College Avenue for outbound trucks), residents living along these streets would be subject to one truck trip per truckload. Based on the above guidelines, one truck per hour could be

noticeable along Reservoir Road and Prospect Avenue, a potentially significant impact. However, given the short-term nature of haul truck traffic increases (40 work days for demolition and 60 work days for grading) and proposed designation of a specific route (limiting the number of residents exposed to noise increases) this impact would be reduced to less than significant with implementation of Mitigation Measure 4.7-1a, which would restrict truck operations to ordinance time limits (daytime hours). In addition, since the demolition contractor will be required to use flagpersons for traffic control (see Section 4.6, Transportation and Traffic, Impact 4.6-1), low truck speeds would further reduce truck noise increases.

***Mitigation Measure 4.7-1, Administrative and Source Controls:*** *Prior to Grading Permit issuance, the project applicant shall demonstrate to the satisfaction of the Town of Los Gatos Public Works Department that the project complies with the following:*

- a. *Pursuant to the Town of Los Gatos Municipal Code Section 16.20.035, construction activities (including operation of haul and delivery trucks) shall occur between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Additionally, pursuant to Municipal Code Section 16.20.035(2) the Contractor shall demonstrate, to the satisfaction of the Town of Los Gatos Public Works Department, that construction noise shall not exceed 85 dBA outside of the property line. This shall be accomplished through the use of properly maintained mufflers and other state-required noise attenuation devices.*
- b. *The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residents so that construction activities can be scheduled to minimize noise disturbance. The plan shall also specify timing of notices to be mailed and posting of signs (i.e., mailing notices at least 15 days prior to commencement of construction of each phase, regarding the construction schedule of the proposed project, posting a sign, legible at a distance of 50 feet shall also be posted at the project construction site). All notices and signs shall be reviewed and approved by the Town of Los Gatos Public Works Department prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name for the contractor's Noise Disturbance Coordinator and a telephone number where residents can contact that person about the construction process and register complaints.*
- c. *The Contractor shall provide, to the satisfaction of the Town of Los Gatos Public Works Department, a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the Town within 24-hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Public Works Department.*

- d. *During construction, stationary construction equipment (e.g., concrete crusher, compressors, generators) shall be located as far as possible from adjacent residential receptors and equipment exhaust vents shall be directed away from the closest residential receptors. In particular, the concrete crusher shall be placed west of the Siena Building or at a location where maximum shielding by buildings, material stockpiles, and topography can be provided and distance from all surrounding residences is maximized.*
- e. *All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.*
- f. *“Quiet” air compressors, generators, and other stationary sources shall be utilized where technology exists.*
- g. *Equipment used for project construction should be hydraulically or electrical powered impact tools (e.g., jackhammers, pavement breakers, and rock drills) wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust should be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves should be used where feasible, and this could achieve a reduction of 5 dBA. In addition, quieter procedures should be used such as drilling rather than impact equipment whenever feasible.*
- h. *At the property boundary with the adjacent residence at 88 Prospect Avenue, the contractor shall work directly with this resident (the closest residence to the site) to reduce construction-related noise impacts to the maximum extent feasible to ensure the 85-dBA ordinance limit is not exceeded. Implementation measures could include: providing noise attenuation such as solid wood fencing along the property boundary if feasible and acceptable to this resident; using smaller types of equipment during demolition of the tennis court; minimizing use of noisier types of heavy equipment (i.e. jackhammers, pavement breakers, rock drills) in proximity to this residence by immediately moving larger pieces of concrete to a location farther from this residence and other nearby residences).*

**Level of Significance After Mitigation:** Less than significant since compliance with noise and time limits specified in the Town Noise Ordinance and implementation of the above administrative and source control measures would reduce the potential for construction-related noise disturbances.

**Impact 4.7-2: Project construction could expose people to or generate excessive groundborne vibration at adjacent residences during construction. (Less Than Significant With Mitigation)**

Project construction can generate varying degrees of groundborne vibration, depending on the construction procedure and the construction equipment used. Operation of construction equipment generates vibrations that spread through the ground and diminish in amplitude with distance from the

source. The effect on buildings located in the vicinity of the construction site often varies depending on soil type, ground strata, and construction characteristics of the receiver building(s). The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels. Groundborne vibrations from construction activities rarely reach levels that damage structures.

Operation of impact or vibratory pile drivers can generate vibration levels that would disturb adjacent receptors and result in cosmetic damage to adjacent structures at distances of less than 50 feet. However, such equipment is not expected to be required for project construction. The threshold distance can vary substantially depending on the soil composition and underground geological layer between vibration source and receiver. In addition, not all buildings respond similarly to vibration generated by construction equipment. With regard to the proposed project, groundborne vibration would be generated by operation of heavy equipment and loaded trucks, primarily during demolition and grading activities. The closest residence to the project site is located approximately 25 feet from the project's eastern boundary. Typical maximum vibration levels at 25 feet (which could be generated by construction equipment operating at the project boundary) are presented in **Table 4.7-5**.

**TABLE 4.7-5**  
**TYPICAL VIBRATION LEVELS FOR CONSTRUCTION EQUIPMENT**

<b>Equipment</b>	<b>Reference Vibration Level at 25 feet, in/sec PPV<sup>a</sup></b>	<b>Exceeds 0.5 in/sec PPV Cosmetic Damage Threshold?</b>
Clam shovel drop	0.202	No
Vibratory roller	0.210	No
Hoe ram, large bulldozer, caisson drilling	0.089	No
Loaded trucks	0.076	No
Jackhammer	0.035	No
Small bulldozer	0.003	No

SOURCE: FTA (2006)

As indicated in Table 4.7-5, based on the Federal Transit Administration (FTA) data, vibration velocities from typical heavy construction equipment operation other than large vibratory compactors that would be used during project construction would range from 0.003 to 0.202 inches per second (in/sec) peak particle velocity (PPV) at 25 feet from the source of activity. Therefore, vibration levels associated with operation of heavy construction equipment at the project boundaries is not expected to exceed the 0.5 in/sec PPV threshold for cosmetic damage from transient vibration, a less-than-significant impact. However, given the proximity of the adjacent residence at 88 Prospect Avenue to the eastern site boundary (about 25 feet) and undefined nature of the size and type of equipment used to remove the existing tennis court, vibration effects are conservatively considered to be a potential significant vibration impact. However, with implementation of Mitigation Measure 4.7-2, Vibration Limits, potential effects from demolition-related vibration would be reduced to less than significant.

Although vibration would not be expected to cause cosmetic or structural damage, it should be noted that future demolition/construction activities on-site could, at times, generate perceptible vibration at existing or proposed residences within approximately 150 feet of the construction site when heavy equipment, vibratory equipment, or impact tools (e.g. jackhammers) are used. In general, vibration levels as low as 0.008 to 0.012 in/sec PPV can be perceptible. However, perceptible vibration levels would be limited to the less sensitive, daytime working hours and they would be limited in duration to demolition and construction activities within 150 feet of a residential receptor. Therefore, construction-related vibration would have a less-than-significant impact on adjacent residences.

***Mitigation Measure 4.7-2, Vibration Limits:** To prevent cosmetic damage at adjacent residences, the project contractor shall not use any equipment that generates vibration levels that exceed 0.5 in/sec PPV, the cosmetic damage threshold for transient vibration, when measured at the closest adjacent residential structures.*

**Level of Significance After Mitigation:** Less than significant since compliance with noise and time limits specified in the Town Noise Ordinance and implementation of the above administrative and source control measures would reduce the potential for construction-related noise disturbances.

#### **OPERATIONAL NOISE**

**Impact 4.7-3: Occupation of proposed residences would not result in a substantial permanent increase in ambient noise levels in the project site vicinity or along local roadways, above levels existing without the project, including noise from existing convent-related activities already on-site. (Less Than Significant)**

There are existing stationary and mobile noise sources associated with operation of the proposed Convent-related activities and facilities. The Convent operates 365 days per year, 24 hours per day, and seven days per week with staffing, medical service providers and physicians, food and medical supply truck deliveries. On a daily basis, 65 employees travel to and from the campus in three separate shifts to care for the Sisters. In addition, the Convent is also used as a full service retreat and meeting facility on a regular basis for the sisters and other organizations, accommodating over 150 people at any given time. There are also heating, ventilation, and air conditioning (HVAC) systems installed in existing structures on-site.

These existing activities would be replaced with residential activities associated with 17 single-family homes. It is expected that noise generated by residential activities (i.e., operation of appliances and maintenance equipment such as lawnmowers, blowers, etc.) would be similar to noise generated by adjacent residences, and would not conflict with the existing residential noise environment in the neighborhood. In addition, the 17 project homes would generate less traffic than existing on-site activities. Therefore, when compared to baseline conditions (existing Convent operations), the project would result in a decrease in traffic-related noise along neighborhood streets providing access to the site

(College Avenue, Prospect Avenue, and Reservoir Road) and decrease in noise levels on-site. Therefore, the project's operational noise impacts would be less than significant.

*Mitigation Measure 4.7-3: None required.*

#### **NOISE COMPATIBILITY OF PROPOSED RESIDENTIAL USE**

**Impact 4.7-4: The project could expose people to or generate noise levels in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies. (Less Than Significant With Mitigation)**

The noise environment at the project site currently exceeds the Town's acceptable noise level goal for exterior noise for new residential uses. The goal for maximum outdoor noise levels in residential areas is 55 dBA DNL. Policy NOI-1.3 directs the Town to "Pursue the outdoor noise limits shown in Table NOI-2 as representing the long range community aspirations and work toward their accomplishment, even though some may be presently unattainable." As indicated in the Noise Element, Title 25, Section 1092 of the California Code of Regulations requires that multi-family units meet the interior noise level of 45 dBA (CNEL). Policy NOI-1.4 indicates that this interior standard should also be applied to single-family residential uses.

The existing noise environment in the northwestern portion of the site currently exceeds the 55-dBA noise goal (primarily due to distant traffic noise along the SR 17 freeway). The future 65 dBA DNL noise contour for the SR 17 freeway lies along the site's northwestern property boundary. Four of the proposed residential lots (#14-17) in the northwestern portion of the site could be exposed to exterior noise levels greater than 60 to 65 dBA DNL, which would exceed the Town of Los Gatos 55-dBA DNL outdoor noise limit goal. Interior noise levels at these lots could also exceed the Town's acceptable interior limit of 45 dBA DNL. Such exceedances would be a significant noise impact. However, with incorporation of noise attenuation measures into future home designs on these lots as specified in Mitigation Measure 4.7-4, this impact would be reduced to less than significant. The noise environment at the remainder of the site would remain below 55 dBA DNL and would be considered acceptable for residential development.

Interior noise levels would vary depending on the design of the buildings (relative window area to wall area) and construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior to interior noise reduction assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. In exterior noise environments ranging from 60 dBA DNL to 65 dBA DNL, interior noise levels can typically be maintained below Town standards with the incorporation of an adequate forced air mechanical ventilation system in each residential unit, which would allow the windows to be closed.

**Mitigation Measure 4.7-4, Noise Attenuation Measures:** *The following noise attenuation measures shall be incorporated into future home designs on proposed Lots 14-17 in order to maintain acceptable exterior and interior noise levels at future residences:*

- a. *When designing individual home plans for proposed Lots 14-17, noise-sensitive outdoor use areas shall be located away from the SR 17 freeway or noise-sensitive outdoor spaces shall be buffered from freeway noise with buildings, structures, solid fencing, berms or other attenuation measures. The specific noise attenuation measure(s) shall be determined and incorporated into the proposed home design during the Architecture & Site review process, to the satisfaction of the Town that the measures meet the Town goal.*
- b. *Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for residences located on Lots 14-17, so that windows could be kept closed at the occupant's discretion to control interior noise. The specific type of forced-air mechanical ventilation system shall be incorporated into future home designs during Architecture & Site review process, to the satisfaction of the Town that the measure meets the Town goal.*

**Level of Significance After Mitigation:** Less than significant with approval of necessary noise attenuation measures during Architecture & Site review to ensure that the Town's exterior noise goal and interior noise limit are met.

#### REFERENCES - NOISE

- American Association of State Highway and Transportation Officials (AASHTO), 2004. *Standard Recommended Practice for Evaluation of Transportation-Related Earthborne Vibrations*.
- Buccaneer Demolition, 2013. *Demolition Debris Calculation and Equipment Survey, Prepared for Sisters of the Holy Names of Jesus and Mary*. July 22.
- Illingworth & Rodkin, Inc., 2013. *Sisters of the Holy Names of Jesus and Mary Residential Subdivision Project, Final Environmental Noise Assessment, Los Gatos, California*. July 9. (Included as Appendix G of this EIR)
- Town of Los Gatos, 2011. *Town of Los Gatos 2020 General Plan*. January 7. Available online at <http://www.losgatosca.gov/index.aspx?NID=27>.
- U.S. Department of Transportation, Federal Transit Administration (FTA), 2006, *Transit Noise and Vibration Impact Assessment Guidelines*, May. Available online at [http://www.fta.dot.gov/documents/FTA\\_Noise\\_and\\_Vibration\\_Manual.pdf](http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf).

## 4.8 AIR QUALITY

This section provides a discussion of existing air quality, evaluates potential air quality impacts associated with the proposed project, and identifies mitigation measures recommended for potentially significant adverse impacts. This section summarizes the detailed air quality and greenhouse gas assessment completed by Illingworth & Rodkin, Inc. for the proposed project in April 2013, which is included in **Appendix H** of this EIR. CalEEMod assumptions and output results are included in Attachment 1 of the Air Quality and Greenhouse Gas Emissions Assessment in Appendix H. This assessment is also available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>1</sup>

### 4.8.1 ENVIRONMENTAL SETTING

#### METEOROLOGY

The project site is located within the San Francisco Bay Area Air Basin (SFBAAB). Temperatures at nearby San Jose Airport average 59 degrees Fahrenheit annually, ranging from the low-40s on winter mornings to near 80 degrees Fahrenheit on summer afternoons.

The climate is dominated by the strength and location of a semi-permanent, subtropical high-pressure cell. During the summer, the Pacific high pressure cell is centered over the northeastern Pacific Ocean resulting in stable meteorological conditions and a steady northwesterly wind flow. Upwelling of cold ocean water from below to the surface because of the northwesterly flow produces a band of cold water off the California coast. The cool and moisture-laden air approaching the coast from the Pacific Ocean is further cooled by the presence of the cold water band resulting in condensation and the presence of fog and stratus clouds along the Northern California coast. In the winter, the Pacific high-pressure cell weakens and shifts southward resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Weak inversions coupled with moderate winds result in a low air pollution potential.

#### AIR QUALITY MONITORING

The California Air Resources Board (CARB) operates a regional monitoring network that measures the ambient concentrations of six criteria air pollutants: ozone, carbon monoxide (CO), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), nitrogen dioxide (NO<sub>2</sub>), and sulfur dioxide (SO<sub>2</sub>). Existing and probable future air quality in the project area can best be inferred from examining ambient air quality measurements at the closest monitoring stations to the project area. The closest air monitoring station to the project site is the Los Gatos monitoring station, which monitors eight-hour and one-hour ozone only. Therefore, the

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<sup>1</sup> <http://www.losgatosca.gov/Prospect>

remaining data was collected from the San Jose-Jackson Street monitoring station (next closest station to the project site). Local air quality data from 2010 to 2012 is provided in **Table 4.8-1**. This table lists the monitored maximum concentrations and number of exceedances of federal/state air quality standards for each year.

**TABLE 4.8-1**  
**LOCAL AIR QUALITY LEVELS**

<b>Pollutant</b>	<b>California Standard</b>	<b>Federal Standard</b>	<b>Year</b>	<b>Maximum<sup>a</sup> Concentration</b>	<b>Days (Samples) State/Federal Std. Exceeded</b>
Ozone (O <sub>3</sub> ) (1-Hour) <sup>b</sup>	0.09 ppm (1-Hour)	NA	2010	0.109 ppm	2/NA
			2011	0.091	0/NA
			2012	0.085	0/NA
Ozone (O <sub>3</sub> ) (8-Hour) <sup>b</sup>	0.07 ppm (8-Hour)	0.075 ppm (8-Hour)	2010	0.087 ppm	3/2
			2011	0.075	1/0
			2012	0.072	1/0
Carbon Monoxide (CO) (1-Hour) <sup>c</sup>	20 ppm (1-Hour)	35 ppm (1-Hour)	2010	2.77 ppm	0/0
			2011	2.46	0/0
			2012	2.50	0/0
Carbon Monoxide (CO) (8-Hour) <sup>c</sup>	9.0 ppm (8-Hour)	9.0 ppm (8-Hour)	2010	2.19 ppm	0/0
			2011	2.18	0/0
			2012	1.86	0/0
Nitrogen Dioxide (NO <sub>2</sub> ) <sup>c,d</sup>	0.18 ppm (1-Hour)	0.100 ppm (1-Hour)	2010	0.064 ppm	0/NA
			2011	0.061	0/NA
			2012	0.056	0/NA
Particulate Matter (PM <sub>10</sub> ) <sup>c,e,f</sup>	50 µg/m <sup>3</sup> (24-Hour)	150 µg/m <sup>3</sup> (24-Hour)	2010	46.8 µg/m <sup>3</sup>	0/0
			2011	44.3	0/0
			2012	56.5	3/0
Fine Particulate Matter (PM <sub>2.5</sub> ) <sup>c,e,f</sup>	No Separate State Standard (24-Hour)	35 µg/m <sup>3</sup> (24-Hour)	2010	41.5 µg/m <sup>3</sup>	NA/3
			2011	50.5	NA/3
			2012	38.4	NA/2

NOTES: **Bold** values are in excess of applicable standard; ppm = parts per million; PM<sub>10</sub> = particulate matter 10 microns in diameter or less; NM = not measured; µg/m<sup>3</sup> = micrograms per cubic meter; PM<sub>2.5</sub> = particulate matter 2.5 microns in diameter or less; NA = not applicable.

<sup>a</sup> Maximum concentration is measured over the same period as the California Standards.

<sup>b</sup> Los Gatos Monitoring Station located at 306 University Avenue, Los Gatos, CA.

<sup>c</sup> San Jose-Jackson Street Monitoring Station located at 158 East Jackson Street, San Jose, CA.

<sup>d</sup> The U.S. Environmental Protection Agency revoked the federal 1-hour standard in June of 2005.

<sup>e</sup> PM<sub>10</sub> exceedances are based on state thresholds established prior to amendments adopted on June 20, 2002.

<sup>f</sup> PM<sub>10</sub> and PM<sub>2.5</sub> exceedances are derived from the percentage of samples exceeded, not days monitored.

SOURCE: CARB, 2010, 2011, 2012.

These annual data summaries indicate that the project area is currently subject to particulate levels (PM<sub>10</sub> and PM<sub>2.5</sub>) that occasionally exceed the state PM<sub>10</sub> annual standard of 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), and also infrequently exceed the federal PM<sub>2.5</sub> standard of  $35 \mu\text{g}/\text{m}^3$ . The annual average PM<sub>2.5</sub> levels did not exceed the state PM<sub>2.5</sub> annual standard of  $12 \mu\text{g}/\text{m}^3$  over the 3-year period. As indicated in **Table 4.8-2**, the SFBAAB is designated as “nonattainment” for state O<sub>3</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> standards, while it is designated as “attainment” for all other criteria pollutants. With respect to federal standards, the Bay Area’s attainment status for 8-hour ozone is classified as “marginal nonattainment” in Santa Clara County, and “nonattainment” for PM<sub>2.5</sub>.

**Ozone (O<sub>3</sub>).** Ozone is a secondary air pollutant produced in the atmosphere through a complex series of photochemical reactions involving reactive organic gases (ROG) and nitrogen oxide (NO<sub>x</sub>). The main sources of NO<sub>x</sub> and ROG, often referred to as ozone precursors, are combustion processes (including motor vehicle engines) and the evaporation of solvents, paints, and fuels. Automobiles are the single largest source of ozone precursors in the Bay Area. O<sub>3</sub> is a regional air pollutant because its precursors are transported and diffused by wind concurrently with ozone production through the photochemical reaction process. Ozone causes eye irritation, airway constriction, and shortness of breath and can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema (BAAQMD, 2011a). Table 4.8-1 shows that exceedance of the state 1-hour standard occurred on 2 days in 2010, but none in 2011 or 2012. The state 8-hour standard of 0.07 ppm was also exceeded five times during this 3-year period from 2010 to 2012.

**Carbon Monoxide (CO).** CO is an odorless, colorless gas usually formed as the result of the incomplete combustion of fuels. The single largest source of CO is motor vehicles; the highest emissions occur during low travel speeds, stop-and-go driving, cold starts, and hard acceleration. Exposure to high concentrations of CO reduces the oxygen-carrying capacity of the blood and can cause headaches, dizziness, fatigue, unconsciousness, and even death (BAAQMD, 2012a). Table 4.8-1 shows that no exceedances of state CO standards were recorded between 2010 and 2012. Maximum 8-hour CO levels average less than 25 percent of the allowable 8-hour standard.

**Suspended and Inhalable Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>).** Particulate matter is a class of air pollutants that consists of solid and liquid airborne particles in an extremely small size range. Particulate matter is measured in two size ranges: PM<sub>10</sub> for particles less than 10 microns in diameter, and PM<sub>2.5</sub> for particles less than 2.5 microns in diameter. Motor vehicles generate about half of all Bay Area particulates, through tailpipe emissions as well as brake pad and tire wear. Another large source of fine particulates is wood burning in fireplaces and stoves. Fine particulates small enough to be inhaled into the deepest parts of the human lung can cause adverse health effects. Extended exposure to particulate matter can increase the risk of chronic respiratory disease. PM<sub>2.5</sub> poses an increased health risk because the particles can deposit deep in the lungs and contain substances that are particularly harmful to human health (BAAQMD, 2012a).

**TABLE 4.8-2**  
**STATE AND FEDERAL AMBIENT AIR QUALITY STANDARDS AND**  
**SFBAAB ATTAINMENT STATUS**

Pollutant	Averaging Time	State Standards <sup>a</sup>		Federal Standards <sup>b</sup>	
		Concentration	Attainment Status	Concentration <sup>c</sup>	Attainment Status
Ozone	1 hour	0.09 ppm (180 $\mu\text{g}/\text{m}^3$ )	N	N/A	–
	8 hour	0.07 ppm (137 $\mu\text{g}/\text{m}^3$ )	N	0.075 ppm	Marginal N <sup>d</sup>
Carbon Monoxide	1 hour	20 ppm (23 $\text{mg}/\text{m}^3$ )	A	35 ppm (40 $\text{mg}/\text{m}^3$ )	A
	8 hour	9 ppm (10 $\text{mg}/\text{m}^3$ )	A	9 ppm (10 $\text{mg}/\text{m}^3$ )	A
Nitrogen Dioxide	1 hour	0.18 ppm (339 $\mu\text{g}/\text{m}^3$ )	A	0.10 ppm <sup>e</sup>	U
	Annual arithmetic mean	0.030 ppm (57 $\mu\text{g}/\text{m}^3$ )	N/A	0.053 ppm (100 $\mu\text{g}/\text{m}^3$ )	A
Sulfur Dioxide <sup>f</sup>	1 hour	0.25 ppm (655 $\mu\text{g}/\text{m}^3$ )	A	0.075 ppm (196 $\mu\text{g}/\text{m}^3$ )	A
	24 hour	0.04 ppm (105 $\mu\text{g}/\text{m}^3$ )	A	0.14 ppm (365 $\mu\text{g}/\text{m}^3$ )	A
	Annual arithmetic mean	N/A	–	0.03 ppm (80 $\mu\text{g}/\text{m}^3$ )	A
Particulate Matter (PM <sub>10</sub> )	24 hour	50 $\mu\text{g}/\text{m}^3$	N	150 $\mu\text{g}/\text{m}^3$	U
	Annual arithmetic mean	20 $\mu\text{g}/\text{m}^3$	N	N/A	–
Fine Particulate Matter (PM <sub>2.5</sub> )	24 hour	N/A	–	35 $\mu\text{g}/\text{m}^3$ <sup>g</sup>	N
	Annual arithmetic mean	12 $\mu\text{g}/\text{m}^3$	N <sup>g</sup>	15 $\mu\text{g}/\text{m}^3$	N
Sulfates	24 hour	25 $\mu\text{g}/\text{m}^3$	A	N/A	–
	30 day average	1.5 $\mu\text{g}/\text{m}^3$	A	N/A	–
Lead	Calendar quarter	N/A	–	1.5 $\mu\text{g}/\text{m}^3$	A
	Rolling 3-month Average	N/A	–	0.15 $\mu\text{g}/\text{m}^3$	U/A
Hydrogen Sulfide	1 hour	0.03 ppm (0.15 $\mu\text{g}/\text{m}^3$ )	U	N/A	–
Vinyl Chloride <sup>h</sup>	24 hour	0.01 ppm (26 $\mu\text{g}/\text{m}^3$ )	–	N/A	–

**TABLE 4.8-2 (CONTINUED)**  
**STATE AND FEDERAL AMBIENT AIR QUALITY STANDARDS AND**  
**SFBAAB ATTAINMENT STATUS**

NOTES: A = attainment; N = nonattainment; U = unclassified; N/A = not applicable or no applicable standard; ppm = parts per million;  $\mu\text{g}/\text{m}^3$  = micrograms per cubic meter;  $\text{mg}/\text{m}^3$  = milligrams per cubic meter; – = not indicated or no information available.

- <sup>a</sup> State ambient air quality standards (California). The state standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1-hour and 24-hour), nitrogen dioxide, and suspended particulate matter (PM<sub>10</sub>) are values that are not to be exceeded. All other state standards shown are values not to be equaled or exceeded. If the standard is for a 1-hour, 8-hour or 24-hour average (i.e., all standards except for lead and the PM<sub>10</sub> annual standard), then some measurements may be excluded. In particular, measurements are excluded that the CARB determines would occur less than once per year on the average.
- <sup>b</sup> National ambient air quality standards. National standards shown are the “primary standards” designed to protect public health. National standards, other than for ozone and particulates, and those based on annual averages or annual arithmetic means, are not to be exceeded more than once a year. The 1-hour ozone standard is attained if, during the most recent three-year period, the average number of days per year with maximum hourly concentrations above the standard is equal to or less than one. The 8-hour ozone standard is attained when the three-year average of the fourth highest daily concentration is 0.075 ppm (775 ppb) or less. The 24-hour PM<sub>10</sub> standard is attained when the three-year average of the 99th percentile of monitored concentrations is less than 150  $\mu\text{g}/\text{m}^3$ . The 24-hour PM<sub>2.5</sub> standard is attained when the three-year average of 98th percentile is less than 35  $\mu\text{g}/\text{m}^3$ .
- <sup>c</sup> National air quality standards are set by U.S. EPA at levels determined to be protective of public health with an adequate margin of safety.
- <sup>d</sup> On September 22, 2011, the U.S. EPA announced it would implement the current 8-hour ozone standard of 0.075 ppm. Initial area designations were issued on March 2012. Santa Clara County was designated by the U.S. EPA as Marginal Nonattainment. Current designations available online at: <http://www.epa.gov/oaqps001/greenbk/anc1.html>.
- <sup>e</sup> To attain this standard, the three-year average of the 98th percentile of the daily maximum 1-hour average at each monitor within an area must not exceed 0.100 ppm (effective January 22, 2010).
- <sup>f</sup> On June 2, 2010, a new 1-hour SO<sub>2</sub> standard was established and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 ppb. The 1971 SO<sub>2</sub> national standards (24-hour and annual) remain in effect until one year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.
- <sup>g</sup> The U.S. EPA designated the SFBAAB as nonattainment of the PM<sub>2.5</sub> standard on October 8, 2009. The effective date of the designation is December 14, 2009 and the BAAQMD has three years to develop a plan—called a State Implementation Plan (SIP)—that demonstrates the SFBAAB will achieve the revised standard by December 14, 2014. The SIP for the new PM<sub>2.5</sub> standard was submitted to the U.S. EPA on December 14, 2012. The SIP for the SFBAAB has not been released yet.
- <sup>h</sup> The CARB has identified lead and vinyl chloride as “toxic air contaminants” with no threshold level of exposure below which there are no adverse health effects determined.

SOURCE: BAAQMD, 2012.

Diesel exhaust is an important concern in the Bay Area and throughout California. The California Air Resources Board (CARB) identified diesel engine particulate matter (DPM) as a toxic air contaminant (TAC), and DPM has also been identified as a human carcinogen. The exhaust from diesel engines includes hundreds of different gaseous and particulate components, many of which are toxic. Many of these toxic compounds adhere to the diesel soot particles, which are very small and can penetrate deeply into the lungs. Several medical research studies have linked near-road pollution exposure to a variety of adverse health outcomes impacting children and adults, including significant allergic response and elevated production of specific antibodies (BAAQMD, 2012a).

Table 4.8-1 shows that the state PM<sub>10</sub> standard was exceeded an estimated 3 times during the last 3 years of data and that occurred in 2012. The federal PM<sub>10</sub> standard of 150  $\mu\text{g}/\text{m}^3$  was not exceeded at the San Jose monitoring station.

In 2006, the U.S. Environmental Protection Agency (EPA) reduced the standard for PM<sub>2.5</sub>, which represents the fine fraction of particulate from 65 to 35  $\mu\text{g}/\text{m}^3$ . Table 4.8-1 presents the PM<sub>2.5</sub> data from the San Jose monitoring stations for 2010 through 2012. The federal 35  $\mu\text{g}/\text{m}^3$  PM<sub>2.5</sub> standard has been exceeded on 8 measurement days during the last three years. The state annual average PM<sub>2.5</sub> standard of 12  $\mu\text{g}/\text{m}^3$  was not exceeded during this 3-year period.

**Other Criteria Air Pollutants.** The standards for NO<sub>2</sub>, SO<sub>2</sub>, and lead are being met in the SFBAAB, and pollutant trends suggest that the air basin will continue to meet these standards for the foreseeable future.

### TOXIC AIR CONTAMINANTS

Toxic air contaminants (TACs) are a defined set of airborne pollutants that may pose a present or potential hazard to human health. A wide range of sources, from industrial plants to motor vehicles, emit TACs. The health effects associated with TACs are quite diverse and generally are assessed locally, rather than regionally. TACs can cause long-term health effects such as cancer, birth defects, neurological damage, asthma, bronchitis or genetic damage; or short-term acute effects such as eye watering, respiratory irritation (a cough), runny nose, throat pain, and headaches (BAAQMD, 2012a).

TACs can be emitted directly and can also be formed in the atmosphere through reactions among different pollutants. The methods presented in the BAAQMD's CEQA Guidelines (2012a) for assessing local community risk and hazard impacts only include direct TAC emissions, not those formed in the atmosphere. TACs do not have ambient air quality standards, but are regulated by the BAAQMD using a risk-based approach. For evaluation purposes, TACs are separated into carcinogens and non-carcinogens based on the nature of the physiological effects associated with exposure to the pollutant. Carcinogens are assumed to have no safe threshold below which health impacts would not occur, and cancer risk is expressed as excess cancer cases per one million exposed individuals, typically over a lifetime of exposure. Non-carcinogenic substances differ in that there is generally assumed to be a safe level of exposure below which no negative health impact is believed to occur. These levels are determined on a pollutant-by-pollutant basis. Acute and chronic exposure to non-carcinogens is expressed as a hazard index (HI), which is the ratio of expected exposure levels to an acceptable reference exposure levels (BAAQMD, 2012a).

### SENSITIVE RECEPTORS

Sensitive populations are more susceptible to the effects of air pollution than is the general population. Sensitive populations (sensitive receptors) that are in proximity to localized sources of toxics and CO are of particular concern. Land uses considered sensitive receptors include residences, schools, playgrounds, childcare centers, long-term health care facilities, rehabilitation centers, convalescent centers, and retirement homes. Residential uses surround the project site and residential receptor locations are indicated in Figure 1 of Attachment 2 of the Air Quality Assessment (Appendix H). The closest school is Los Gatos High School, located approximately one-third mile to the northeast.

## 4.8.2 REGULATORY AND PLANNING FRAMEWORK

### AMBIENT AIR QUALITY STANDARDS

The federal Clean Air Act Amendments of 1970 established national ambient air quality standards, and individual states retained the option to adopt more stringent standards and to include other pollution sources. California had already established its own air quality standards when Federal standards were established, and because of the unique meteorological problems in the state, there is considerable diversity between state (SAAQS) and federal or national (NAAQS) standards currently in effect in California. These standards and current attainment status of the San Francisco Bay Area Air Basin (SFBAAB) is shown in Table 4.8-2.

The ambient air quality standards are intended to protect the public health and welfare, and they incorporate an adequate margin of safety. They are designed to protect those segments of the public most susceptible to respiratory distress, known as sensitive receptors, including asthmatics, the very young, the elderly, people weak from other illness or disease, or persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollution levels somewhat above the ambient air quality standards before adverse health effects are observed.

#### Federal Standards

The 1977 Clean Air Act (CAA) required that regional planning and air pollution control agencies prepare a regional Air Quality Plan to outline the measures by which both stationary and mobile sources of pollutants can be controlled in order to achieve all standards within the deadlines specified in the Clean Air Act. For the San Francisco Bay Area Air Basin (SFBAAB), the Association of Bay Area Governments (ABAG), the Metropolitan Transportation Commission (MTC), and the Bay Area Air Quality Management District (BAAQMD) jointly prepared a Bay Area Air Quality Plan in 1982, which predicted attainment of all federal Clean Air standards within the air basin by 1987. This forecast was somewhat optimistic in that attainment of federal Clean Air standards did not occur throughout the entire air basin until 1991. The plan, which is referred to as the State Implementation Plan (SIP), must contain control strategies that demonstrate attainment with national ambient air quality standards by deadlines established in the federal CAA. The SFBAAB attainment status with respect to federal standards is summarized in Table 4.8-2.

In general, the Bay Area experiences low concentrations of most pollutants when compared to federal standards, except for O<sub>3</sub> and particulate matter, for which standards are exceeded periodically. With respect to federal standards, the Bay Area's attainment status for 8-hour ozone is classified as "marginal nonattainment" and "nonattainment" for PM<sub>2.5</sub>. As a designated "marginal" nonattainment area for the federal 8-hour ozone standard, preparation of a SIP is currently not required. However, in response to the EPA's designation of the basin for the 8-hour federal ozone standard, the BAAQMD, ABAG, and MTC were required to develop an ozone attainment plan to meet this standard. The *1999 Ozone Attainment Plan* was prepared and adopted by these agencies in June 1999 and this plan was updated in 2001. The

most recent state ozone plan is the Bay Area *2010 Clean Air Plan*. The *2010 Clean Air Plan* was developed as a multi-pollutant plan that provides an integrated control strategy to reduce ozone, particulate matter (PM), toxic air contaminants, and greenhouse gases. In 1998, after many years without violations of any carbon monoxide (CO) standards, the attainment status for CO was upgraded to "attainment."

### **State Standards**

In 1988, California passed the California Clean Air Act (AB2595) which, like its federal counterpart, called for designations of areas as attainment or non-attainment, based on state Ambient Air Quality Standards rather than federal or national standards. The Bay Area Air Basin attainment status with respect to state standards is summarized in Table 4.8-2. In general, this table indicates the Bay Area experiences low concentrations of most pollutants when compared to state standards, except for ozone and particulate matter, for which standards are exceeded periodically.

The California Air Resources Board (CARB) is the state agency responsible for regulating air quality. The CARB responsibilities include establishing state Ambient Air Quality Standards, emissions standards and regulations for mobile emissions sources (e.g., autos, trucks, etc.), and overseeing the efforts of county-wide and multi-county air pollution control districts, which have primary responsibility over stationary sources. The emission standards most relevant to the proposed project are those related to automobiles, light- and medium-duty trucks, and California heavy-duty truck engines.

The California Air Resources Board (CARB) regulates vehicle fuels with the intent to reduce emissions. Diesel exhaust is a serious concern throughout California. The CARB identified diesel engine particulate matter as a toxic air contaminant. The exhaust from diesel engines includes hundreds of different gaseous and particulate components, many of which are toxic. Many of these toxic compounds adhere to the diesel particles, which are very small and can penetrate deeply into the lungs. Diesel engine particulate matter has been identified as a human carcinogen. Mobile sources such as trucks, buses, and automobiles are some of the primary sources of diesel emissions. Studies show that diesel particulate matter concentrations are much higher near heavily traveled highways and intersections. The cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other toxic air pollutant routinely measured in the region. Diesel exhaust contains both pulmonary irritants and hazardous compounds that can affect sensitive receptors such as young children, senior citizens, or those susceptible to chronic respiratory disease such as asthma, bronchitis, and emphysema.

In 2005, the CARB approved a regulatory measure to reduce emissions of toxic and criteria pollutants by limiting the idling of new heavy-duty diesel vehicles, which altered five sections of Title 13 of the California Code of Regulations. The changes relevant to the proposed project are in Section 2485, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling, which limit idling of a vehicle's primary diesel engine for greater than five minutes in any location (with some exceptions) or operation of a diesel-fueled auxiliary power system within 100 feet of residential areas.

## REGIONAL AND LOCAL GUIDELINES

### Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) is the regional agency responsible for air quality regulation within the SFBAAB. The BAAQMD regulates air quality through its planning and review activities. The BAAQMD has permit authority over most types of stationary emission sources and can require stationary sources to obtain permits, and can impose emission limits, set fuel or material specifications, or establish operational limits to reduce air emissions. The BAAQMD regulates new or expanding stationary sources of toxic air contaminants.

In March 2010, the BAAQMD, in cooperation with the MTC and ABAG, published the draft *Bay Area 2010 Clean Air Plan*, and in September 2010, the BAAQMD adopted the *Bay Area 2010 Clean Air Plan (CAP)*. The CAP updates the *2005 Ozone Strategy* in accordance with the requirements of the CCAA to achieve the following:

- Implement all feasible measures to reduce ozone; provide a control strategy to reduce ozone, particulate matter, toxic air contaminants, and GHGs in a single, integrated plan;
- Review progress in improving air quality in recent years; and
- Establish emission control measures to be adopted or implemented in the 2010 to 2012 time frame.

The control strategy includes stationary source control measures to be implemented through BAAQMD regulations; mobile source control measures to be implemented through incentive programs and other activities; and transportation control measures to be implemented through transportation programs in cooperation with the MTC, local governments, transit agencies, and others. The CAP also represents the Bay Area's most recent triennial assessment of the region's strategy to attain the state one-hour ozone standard.

Under CEQA, the BAAQMD is a commenting responsible agency on air quality within its jurisdiction or impacting its jurisdiction. The BAAQMD reviews projects to ensure that they would: (1) support the primary goals of the latest Air Quality Plan; (2) include applicable control measures from the Air Quality Plan; and (3) not disrupt or hinder implementation of any Air Quality Plan control measures.

The BAAQMD adopted their updated *CEQA Air Quality Guidelines* to assist lead agencies in evaluating air quality impacts of projects and plans proposed in the SFBAAB. These guidelines provide BAAQMD-recommended procedures for evaluating potential air quality and GHG impacts during the environmental review process consistent with CEQA requirements. In addition to providing new thresholds for GHG emissions, the 2010/2011 BAAQMD *CEQA Guidelines* provided updated significance thresholds for criteria pollutants and superseded the BAAQMD's previous CEQA guidance titled, *BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts of Projects and Plans* (1999).

On March 5, 2012, the Alameda County Superior Court issued a judgment finding that the BAAQMD had failed to comply with CEQA when it adopted the Thresholds. The court issued a writ of mandate ordering the BAAQMD to set aside the Thresholds and cease dissemination of them until the BAAQMD had complied with CEQA. On August 13, 2013, the California Court of Appeal reversed the Alameda County Superior Court judgment that invalidated the BAAQMD's CEQA thresholds of significance. In a published ruling, the Court directed that the Superior Court vacate the writ of mandate issued in March 2012, ordering the BAAQMD to set aside its June 2010 resolution (Res. #2010-06) "Adopting Thresholds for Use in Determining the Significance of Projects' Environmental Effects Under the California Environmental Quality Act." Therefore, the 2010/2011 BAAQMD CEQA Air Quality Guidelines and significance thresholds will be back in effect as soon as the Superior Court complies with the appellate court ruling.

### Los Gatos General Plan

The Environment and Sustainability Element of the Los Gatos 2020 General Plan (Town of Los Gatos, 2010) establishes goals and policies for maintaining and improving acceptable air quality in Los Gatos. In general, the proposed project would be consistent with Goal ENV-12 and associated policies or specified mitigation measures would avoid potential environmental impacts associated with potential conflicts with policies designed to avoid such environmental impacts. Project consistency with these policies is discussed in the following project consistency analysis table.

General Plan Policies	Project Consistency Analysis
<p><i>Environment and Sustainability Element</i></p> <p><i>Goal ENV-12: To conserve the air resources of the Town and maintain and improve acceptable air quality in Los Gatos.</i></p> <p><i>ENV-12.1: Local land use decisions shall consider air quality goals as part of the environmental review process.</i></p>	<p>A detailed air quality assessment was prepared for the project (Illingworth &amp; Rodkin, 2013) and it is included as Appendix H of this EIR. Findings of the assessment are presented below. The detailed air quality assessment determined that the project's construction-related and operational air quality impacts as well as health risks would be less than significant with specified mitigation.</p>
<p><i>ENV-12.2: Require consideration of alternatives to individual auto use whenever the environmental review document concludes that the traffic generated by a development project would result in adverse impacts from air and noise pollution.</i></p> <p><i>ENV-12.5: Site plans shall be reviewed to include an assessment of the potential adverse impact from air pollution and recommend alternatives to reduce such impacts.</i></p> <p><i>ENV-12.3: Require design criteria for site plans to reduce the effects of high air pollution concentrations associated with roadways by appropriate placement of structures, use of landscaping, and parking arrangements.</i></p>	<p>A detailed air quality assessment was completed for the project, based on the proposed site plan, and the project's operational air quality emissions were determined to be less than significant. A health risk analysis was completed for the project, and health risks from exposure to SR 17 freeway and stationary source emissions (sources within 1,000 feet of the site) were determined to be less than significant. See Impact 4.8-4 below for more discussion.</p>
<p><i>ENV-12.4: Support Bay Area Air Quality Management District (BAAQMD), Metropolitan Transportation Commission (MTC), state, and federal planning efforts and programs aimed at reducing air pollution within the airshed.</i></p>	<p>As indicated in Impact 4.8-1, the project would not conflict with or obstruct regional air quality planning efforts.</p>

### General Plan Policies

*ENV-12.7: During construction, ensure all applicable best management practices are used in accordance with Bay Area Air Quality Management District (BAAQMD) standards to reduce emissions of criteria pollutants.*

*ENV-12.8: Best Available Control Measures including compliance with California vehicle emissions standards shall be incorporated to reduce construction emissions.*

*ENV-12.9: For significant projects, require project proponents to prepare and implement a Construction Management Plan, which will include Best Available Control Measures, among other measures. Appropriate control measures will be determined on a project-by-project basis, and should be specific to the pollutant for which the daily threshold is exceeded. Such control measures may include, but not be limited to:*

- a. Minimizing simultaneous operation of multiple construction equipment units.*
- b. Watering the construction area to minimize fugitive dust.*
- c. Requiring off-road diesel powered vehicles used for construction to comply with California vehicle emissions standards.*
- d. Minimizing idling time by construction vehicles.*

### Project Consistency Analysis

As indicated in Table 4.8-3 below, the project's construction-related emissions would not exceed the EIR significance thresholds for criteria pollutants. The BAAQMD CEQA Air Quality Guidelines consider fugitive dust and exhaust emissions to be less than significant if Best Management Practices (BMPs) are employed to reduce these emissions. Therefore, with implementation of Mitigation Measure 4.8-2, BAAQMD Basic Construction Measures, this impact would be less than significant. See Impact 4.8-2 below for more discussion.

## 4.8.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

### SIGNIFICANCE CRITERIA AND THRESHOLDS

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, a project normally would have a significant effect on the environment if it would:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation;
- Expose sensitive receptors to substantial pollutant concentrations;
- Create objectionable odors affecting a substantial number of people; or
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).<sup>2</sup>

<sup>2</sup> This significant criterion is addressed in the air quality discussion in Chapter 5, CEQA Considerations, Section 5.4, Cumulative Impacts.

Many air pollution impacts occur from the chemical transformation of relatively benign pollutants to more pernicious forms. This process requires an extended period of reaction time. Individual project-related emissions will have been diluted to undetectable levels far from the source and hours later once the process is substantially completed. The impact is therefore cumulative from thousands of individual sources. The common approach is to designate a source-based emission level as having a potentially significant impact even if the project-specific ambient air quality increment cannot be explicitly calculated. Such source-based emission levels are represented in the significance thresholds for this EIR (below), which add specificity to the general thresholds derived from Appendix G, as set forth above, are stated below.

**Significance Thresholds.** Exercising its own discretion as lead agency, the Town of Los Gatos has decided for this EIR to rely on the thresholds within the *Options and Justification Report* (dated October 2009) prepared by the BAAQMD. The BAAQMD *Options and Justification Report* establishes thresholds based on substantial evidence and the thresholds are consistent with the thresholds outlined within the 2010/2011 BAAQMD *CEQA Air Quality Guidelines*. The thresholds have been developed by the BAAQMD in order to attain state and national ambient air quality standards. Therefore, projects below these thresholds would not violate an air quality standard and would not contribute substantially to an existing or projected air quality violation. The BAAQMD *Options and Justification Report* establishes the following thresholds based on substantial evidence and are consistent with the thresholds outlined within the 2010/2011 BAAQMD CEQA Air Quality Guidelines:

- NO<sub>x</sub> and ROG: 54 pounds/day
- PM<sub>10</sub>: 82 pounds/day
- PM<sub>2.5</sub>: 54 pounds/day

In addition to establishing the above significance thresholds for criteria pollutant emissions, the BAAQMD also recommended (BAAQMD, 2009) the following quantitative thresholds to determine the significance of construction-related and operational emissions of toxic air contaminants from individual project and cumulative sources on cancer and non-cancer health risks:

- Increased cancer risk of >10.0 in a million for individual projects and >100 in a million (from all local sources) for cumulative sources;
- Increased non-cancer risk of >1.0 Hazard Index (Chronic or Acute) for individual projects and >10.0 Hazard Index (from all local sources) for cumulative sources; and
- Ambient PM<sub>2.5</sub> increase: >0.3 μg/m<sup>3</sup> annual average for individual projects and >0.8 μg/m<sup>3</sup> annual average (from all local sources) for cumulative sources.

## METHODOLOGY

This air quality impact analysis considers construction and operational impacts associated with the proposed project. Construction equipment, trucks, worker vehicles, and ground-disturbing activities

associated with project construction would generate emissions of criteria air pollutants and precursors. The BAAQMD supports the use of the California Emissions Estimator Model (CalEEMod) to calculate both construction emissions and operational emissions from the proposed project. This model calculates both the daily maximum and annual average emissions for criteria pollutants as well as total or annual greenhouse gas (GHG) emissions. CalEEMod (Version 2011.1.1) was used to calculate emissions that would be generated by the proposed conversion of the existing convent facility to 17 single-family residences. In addition, CARB's OFFROAD2010 modeling methodologies were used to estimate emissions from demolition-related haul truck emissions. Modeling results for both construction and operational emissions are presented in the impact discussion below. Estimated emissions are compared to the above daily criteria pollutant emissions significance thresholds in order to determine the significance of a project's impact on regional air quality.

Consistent with the BAAQMD *CEQA Guidelines*, this analysis assumes potential health risk and hazard impacts could occur at sensitive receptors located within 1,000 feet from emission sources. Thus, human health risks and hazards associated with project construction are calculated at the Maximally-Exposed Individual (MEI) within the 1,000-foot zone of influence of the project site. This analysis evaluates risk and hazard impacts on MEI due to the proposed project's construction-related TAC emissions, primarily as diesel exhaust (diesel particulate matter, DPM) in combination with other existing major sources of DPM such as freeways. Cumulative risk and hazard impacts associated with the proposed project's construction-related emissions in combination with emissions from other cumulative projects in the project vicinity are also evaluated consistent with BAAQMD *CEQA Guidelines* for evaluating cumulative risk and hazard impacts.

#### AIR QUALITY PLAN CONSISTENCY

##### **Impact 4.8-1: Project-related criteria pollutant emissions would not conflict with or obstruct implementation of the applicable Air Quality Plan. (Less Than Significant)**

The most recently adopted air quality plan in the SFBAAB is the *Bay Area 2010 Clean Air Plan (CAP)*. The CAP outlines how the San Francisco Bay Area will attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions. The consistency of the proposed project with the most recently adopted regional air quality plan, the CAP, is determined by comparing the project's consistency with the Los Gatos 2020 General Plan, which was also adopted in September 2010. Since the CAP is based on the Town's General Plan in effect at the time the CAP was approved, consistency of the project with the 2020 General Plan would indicate consistency with the CAP. The project's proposed density of 1.65 units per acre would be well within the range of residential densities allowed by the General Plan (up to 5 units per acre). Therefore, the project would be consistent with the CAP, a less-than-significant impact. In addition, the project's construction-related and operational emissions would not exceed the BAAQMD's significance thresholds for criteria pollutants or toxic air contaminants.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided in to five categories that include:

- Stationary and Area Source Control Measures. The CAP includes Stationary Source Control measures that BAAQMD adopts as rules or regulations through their authority to control emissions from stationary and area sources. The BAAQMD is the implementing agency, since these control measures are applicable to sources of air pollution that must obtain BAAQMD permits. Any new stationary sources would be required to obtain proper permits through BAAQMD. In addition, the Town uses BAAQMD's CEQA Air Quality Guidelines to evaluate air pollutant emissions from new sources. The project does not propose any new stationary sources of pollutant emissions (e.g., emergency back-up generators), and therefore, these measures would not apply to the proposed project.
- Mobile Source Measures. The CAP includes Mobile Source Measures that would reduce emissions by accelerating the replacement of older, dirtier vehicles and equipment through programs such as the BAAQMD's Vehicle Buy-Back and Smoking Vehicle Programs, and promoting advanced technology vehicles that reduce emissions. The implementation of these measures rely heavily upon incentive programs, such as the Carl Moyer Program and the Transportation Fund for Clean Air, to achieve voluntary emission reductions in advance of, or in addition to, CARB requirements. CARB has new regulations that require the replacement or retrofit of on-road trucks, construction equipment and other specific equipment that is diesel powered. Construction equipment operated by project-related contractors (including those constructing on individual home sites) would be subject to these CARB emission control regulations.
- Transportation Control Measures. The CAP includes transportation control measures (TCMs) that are strategies meant to reduce vehicle trips, vehicle use, vehicle miles traveled, vehicle idling, or traffic congestion for the purpose of reducing motor vehicle emissions. While most of the TCMs are implemented at the regional level (e.g., by MTC or Caltrans), there are measures that the CAP relies upon local communities to assist with implementation. In addition, the CAP includes land use measures and energy and climate measures where implementation is aided by proper land use planning decisions. The Los Gatos 2020 General Plan update includes measures to reduce vehicle travel that are consistent with the CAP TCMs. In addition, the General Plan committed the Town to developing and adopting a Climate Action Plan that would require additional TCMs consistent with CAP measures intended to reduce automobile use and to facilitate non-auto linkages through a network. In October 2012, the Town adopted the Los Gatos Sustainability Plan, which is the Town's Climate Action Plan. The project would be too small to incorporate a Transportation Demand Management (TDM) plan, and development of a TDM plan would not be required.

- **TAC Exposure.** The CAP includes measures to reduce TAC exposure to sensitive receptors. The project would introduce new sensitive receptors (residences) in close proximity to State Route 17 (SR 17) and would generate TAC emissions during demolition and construction activities. Impacts associated with TAC emissions are discussed under Impact 4.8-4 below.
- **Sustainability Plan.** By adopting the Los Gatos Sustainability Plan, the Town has committed to numerous actions in reducing GHG emissions to address climate change. These actions and policies support many of the CAP measures aimed at reducing air pollutant and GHG emissions associated with land use planning. See Section 4.9.2, Regulatory and Planning Framework for more discussion of the project's consistency with the Sustainability Plan.

*Mitigation Measure 4.8-1: None required.*

#### CONSTRUCTION IMPACTS

##### **Impact 4.8-2: Project construction could violate an air quality standard or contribute substantially to an existing or projected air quality violation. (Less Than Significant With Mitigation)**

Short-term air quality impacts are predicted to occur during demolition, grading and construction operations associated with implementation of the proposed project. During grading and construction activities, dust and exhaust emissions would be generated. Most of the dust emissions would result during grading activities. The amount of dust generated on a daily basis would be highly variable and would depend on the size of the area disturbed at any given time, amount of activity, soil conditions and meteorological conditions. Nearby receptors could be adversely affected by dust generated during construction activities.

Proposed demolition, subsequent construction of roads and infrastructure, and construction of homes are expected to occur over approximately 19 months. Off-hauling of demolition waste would generate approximately 258 truckloads over 40 work days (Buccaneer Demolition, Inc., 2013). In addition, during the grading phase, approximately 2,000 cubic yards of soil would be hauled off-site in 100 truckloads using 20 cubic yard trucks) over 60 work days. Estimated annual and average daily emissions generated by construction equipment and haul trucks are presented in **Table 4.8-3**. As indicated in this table, construction exhaust emission estimates would be below BAAQMD thresholds and, therefore, this impact would be less than significant.

The BAAQMD CEQA Air Quality Guidelines consider fugitive dust and exhaust emissions to be less than significant if Best Management Practices (BMPs) are employed to reduce these emissions. Therefore, this impact is considered to be temporary significant impact, but implementation of Mitigation Measure 4.8-2, BAAQMD Basic Construction Measures, would reduce this impact to less than significant.

TABLE 4.8-3

## PROJECT CONSTRUCTION EXHAUST EMISSIONS

Emissions Source	Annual Emissions (tons/year) <sup>a</sup>			
	ROG	NO <sub>x</sub>	PM10	PM2.5
2014 Annual Emissions	0.59	4.54	0.23	0.23
2015 Annual Emissions	0.43	.95	.07	.07
Emissions Source	Average Daily Emissions (pounds/day)			
	ROG	NO <sub>x</sub>	PM10	PM2.5
Average Daily Emissions <sup>b</sup>	5.0	26.8	1.5	1.5
EIR Significance Threshold	54	54	82 <sup>a</sup>	54 <sup>a</sup>
Unmitigated Emissions Exceed This Threshold?	No	No	No	No

NOTES: ROG = reactive organic gases; NO<sub>x</sub> = nitrogen oxides; PM10 = particulate matter less than 10 microns; PM2.5 = particulate matter less than 2.5 microns.

a Emissions estimates include equipment exhaust emissions estimated using CalEEMod and haul truck emissions estimated using CARB's OFFROAD2010 modeling methodologies. The model default values were used for computing exhaust emissions rates with the exception that load factors for equipment usage were reduced by 33 percent to be consistent with CARB's OFFROAD2010 modeling methodologies. In addition, ROG emissions from architectural coatings were adjusted from 250 grams per liter of VOC6 to 150 grams per liter to account for BAAQMD's Regulation 8, Rule 3 that applies to the volatile organic compound content of paints and solvents sold and used in the region.

b Average daily emissions were computed by dividing the total construction period emissions by the number of anticipated construction days. Much of the emissions were anticipated to occur over about 410 work days during the approximately 19-month construction period.

SOURCE: Illingworth & Rodkin, 2013. See Attachment 1 of Appendix H for CalEEMod input and output worksheets.

**Mitigation Measure 4.8-2, BAAQMD Basic Construction Measures:** *Prior to issuance of any Grading or Demolition Permit, the Town Engineer and the Chief Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that the following basic construction measures be implemented as specified in the BAAQMD Guidelines during all project construction (including individual lot development):*

- a. *All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.*
- b. *All haul trucks transporting soil, sand, or other loose material off-site shall be covered.*
- c. *All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.*
- d. *All vehicle speeds on unpaved roads shall be limited to 15 mph.*
- e. *All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.*
- f. *Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes. Clear signage shall be provided for construction workers at all access points.*

- g. *All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.*
- h. *Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.*

**Level of Significance After Mitigation:** The BAAQMD considers construction emissions to be less than significant with implementation of the above dust and exhaust control measures, even though, as demonstrated in Table 4.8-3, the project's construction-related daily criteria pollutant emissions would not exceed specified significance thresholds.

#### **OPERATIONAL IMPACTS**

##### **Impact 4.8-3: Project operations would not violate any air quality standard or contribute substantially to an existing or projected air quality violation. (Less Than Significant)**

Initially, there would be a decrease in operational emissions when the existing convent facility is closed and demolished. However, when all project lots are eventually developed and homes are occupied, project residents would generate operational criteria pollutant emissions from both area and mobile sources associated with normal daily residential activities. Area source emissions would be associated with increased demand for electrical energy and natural gas by project residents. However, it is important to note that there are currently area source and mobile source emissions associated with operation of the existing 85,000 s.f. facility, which is comprised of older, less energy efficient buildings with 66 residents and staff. While the sizes and number of occupants of the 17 project homes is currently unknown, it is expected that the total number of residents and building areas would be substantially less than existing development. Therefore, project implementation would likely result in a reduction in operational emissions associated with the project site. Mobile emissions would be generated by the use of motor vehicles by project residents.

Project-generated stationary area source and mobile source emissions were calculated using CalEEMod and results are presented in **Table 4.8-4**. As indicated in Table 4.8-4, area source emissions from the proposed project would not exceed EIR significance thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. Therefore, operational impacts from area and mobile source emissions would be less than significant.

**TABLE 4.8-4  
PROJECT OPERATIONAL CRITERIA POLLUTANT EMISSIONS**

Emission Source	Average Daily Emissions (pounds/day)			
	ROG	NO <sub>x</sub>	PM10	PM2.5
Area Source	4.4	0.1	0.7	0.7
Energy	0.0	0.2	0.0	0.0
Mobile Source	0.8	1.3	1.0	0.1
Waste	0.0	0.0	0.0	0.0
Water	0.0	0.0	0.0	0.0
Total Unmitigated Operational Emissions	5.2	1.6	1.7	0.8
EIR Significance Thresholds	54	54	82	54
Unmitigated Emissions Exceed This Threshold? (Significant Impact?)	No	No	No	No

Emission Source	Annual Emissions (tons/year)			
	ROG	NO <sub>x</sub>	PM10	PM2.5
Area Source	0.81	0.01	0.12	0.12
Energy	0.00	0.03	0.00	0.00
Mobile Source	0.13	0.23	0.19	0.02
Waste	0.00	0.00	0.00	0.00
Water	0.00	0.00	0.00	0.00
Total Unmitigated Operational Emissions	0.94	0.27	0.31	0.14
EIR Significance Thresholds	10	10	15	10
Unmitigated Emissions Exceed This Threshold? (Significant Impact?)	No	No	No	No

NOTES: ROG = reactive organic gases; NO<sub>x</sub> = nitrogen oxides; CO = carbon monoxide; SO<sub>2</sub> = sulfur dioxide; PM<sub>10</sub> = particulate matter; less than 10 microns; PM<sub>2.5</sub> = particulate matter; less than 2.5 microns; lbs/day = pounds per day.

SOURCE: Illingworth & Rodkin, 2013. See Attachment 1 of Appendix H for CalEEMod input and output worksheets.

**Mitigation Measure 4.8-3:** None required.

#### EXPOSURE OF SENSITIVE RECEPTORS

#### **Impact 4.8-4: Project implementation could expose sensitive receptors to substantial pollutant concentrations. (Less Than Significant with Mitigation)**

Sensitive receptors are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. CARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. Sensitive receptors within the immediate vicinity of the project site are the existing residences to the north, east, south, and west. Localized impacts from project construction and operations are analyzed below.

**Project-related Health Risks.** Proposed residential uses would not generate toxic air contaminants (TAC) that would pose a possible risk to off-site uses. Any possible TAC impacts would result solely from construction. Combustion emissions from construction equipment would be generated during project construction and could expose sensitive receptors to DPM and other TACs. The only activity adjacent to sensitive uses for any length of time are the activities required to demolish existing buildings and construct roads, infrastructure, and homes.

A screening-level health risk analysis was conducted to assess potential health effects at these nearby sensitive receptors from project-related construction emissions of DPM. A dispersion model was used to predict the off-site concentrations resulting from project construction so that lifetime cancer risks could be predicted. Figure 1 in Attachment 2 of Appendix H shows the project site and sensitive receptor locations (residences) used in the air quality dispersion modeling analysis where potential health risks were evaluated. Excess cancer and non-cancer health risks were estimated using CARB's OFFROAD model, CalEEMod (Version 2011.1.1), EMFAC2011 model, and U.S. EPA's ISCST dispersion model. Assumptions for off-road construction equipment operation, haul truck volumes, truck trip lengths, durations, etc. used in these models are described in Appendix H. As indicated in **Table 4.8-5**, demolition and construction of the project is anticipated to occur over about a year and a half period. If construction occurs over a longer period, it is expected that potential impacts would be the same or slightly decreased.

**TABLE 4.8-5**  
**CUMULATIVE HEALTH RISKS FROM ALL LOCAL SOURCES**

Type	Source	Cancer Risk (cases in a million)	Non-Cancer Risk (hazard index)	Annual Average PM <sub>2.5</sub> Conc. ( $\mu\text{g}/\text{m}^3$ )
Freeway	SR 17	3.8	<0.01	0.03
Proposed Project	Unmitigated Construction Emissions	16.1	0.003	0.013
<b>Maximum Cumulative Health Risks</b>		<b>19.9</b>	<b>0.003</b>	<b>0.043</b>
EIR Significance Threshold		>100	>10.0	>0.8
Exceeds Threshold?		No	No	No

SOURCE: Illingworth & Rodkin, Inc. (2013)

Results of this screening-level health risk analysis indicate that the maximum construction-related residential child cancer risk is 16.1 excess cancer cases in one million and the residential adult cancer risk is 0.8 in one million. The predicted child excess cancer risk assumes that an infant would be present outdoors at the location of the modeled maximum concentration almost continuously throughout the entire construction period. Given that this is unlikely, this analysis of health risks is considered to be conservative (i.e., impacts are overestimated).

While the maximum residential adult cancer risk is below the EIR's significance threshold of 10 excess cancer cases in one million, the increased cancer risk for a residential child exposure would exceed this significance threshold and is considered a significant impact. However, with implementation of Mitigation Measures 4.8-1a and 4.8-1b, Emission Reduction Measures, the computed maximum excess

residential child cancer risk would be reduced to below 9.7 in one million, below the EIR's significance threshold of 10 in one million. Therefore, increased health risks during project demolition and construction would be less than significant.

The maximum annual PM<sub>2.5</sub> concentrations would be 0.18  $\mu\text{g}/\text{m}^3$ , which would not exceed the BAAQMD significance threshold of 0.3  $\mu\text{g}/\text{m}^3$ . The chronic non-cancer hazard index (HI) for the project would be 0.04, well below the EIR's significance threshold of greater than 1.0 HI. Acute non-cancer health effects are not associated with DPM.

**Nearby Stationary and Mobile Source Health Risks.** The 2010/2011 BAAQMD *CEQA Guidelines* recommend that existing stationary and mobile emissions sources within 1,000 feet of the project area also be considered in addition to the project's sources. Any potential combined or cumulative health risk would, therefore, derive from project activities plus any existing identified risk sources within the project vicinity. The BAAQMD has developed a Google Earth application that maps the locations of all stationary sources in the region that the District permits. For this project, there are no permitted stationary sources within 1,000 feet of the site substantial risk. Therefore, the potential health risks to future project residents from surrounding stationary sources would be less than significant.

Busy highways are a source of TAC emissions that could affect new sensitive receptors, such as residences. BAAQMD provides screening tools that indicate predicted community risk impacts that highways pose. BAAQMD's Google Earth Highway Screening Analysis Tool is a Google Earth map tool used to identify estimated risk and hazard impacts from highways throughout the Bay Area. The only roadway with more than 10,000 ADT that is within 1,000 feet of the project site is the State Route (SR) 17 freeway. The nearest proposed residence would be approximately 750 feet south of SR 17. At this distance, the screening level risk indicated by the Highway Tool is 3.8 in one million excess cancer risk, 0.03  $\mu\text{g}/\text{m}^3$  PM<sub>2.5</sub> concentration, and acute or chronic hazard index of less than 0.01. These screening level risks are all well below BAAQMD significance thresholds, and therefore, health risks to project residents from TAC emissions associated with the nearby SR 17 freeway would be less than significant.

**Combined or Cumulative Health Risks.** The combined or cumulative health risks from TAC exposure to sensitive receptors were evaluated by comparing the combined health risks from the SR 17 freeway and the proposed project's construction-related health risks to the EIR's risk significance thresholds for cumulative sources (see Table 4.8-5). The combined levels would be well below the EIR's cumulative significance thresholds of 100 in one million excess cancer risk, 0.8  $\mu\text{g}/\text{m}^3$  annual PM<sub>2.5</sub> concentration, and 10.0 hazard index. Therefore, the project's contribution to cumulative health risks to nearby residential receptors would not be cumulatively considerable.

**Localized Carbon Monoxide Hotspots.** The SFBAAB is designated as attainment for carbon monoxide (CO). Emissions and ambient concentrations of CO have decreased dramatically in the SFBAAB with the introduction of the catalytic converter in 1975. No exceedances of the CAAQS or NAAQS for CO have been recorded at nearby monitoring stations since 1991 (BAAQMD, 2010; p. 6-1). As a result, the

BAAQMD screening criteria notes that CO impacts may be determined to be less than significant if a project is consistent with the applicable congestion management plan (CMP) and would not increase traffic volumes at local intersections to more than 24,000 vehicles per hour for locations in heavily urban areas, where “urban canyons” formed by buildings tend to reduce air circulation. As indicated in Section 4.6, Traffic and Circulation, the project would result in a decrease in traffic levels generated at the project site. Therefore, the project would have a beneficial impact related to CO concentrations.

***Mitigation Measure 4.8-4: Emission Reduction Measures.*** *Use of Tier 4 engines for all compressors and all diesel-fueled equipment used during the building construction phases to minimize emissions. Such equipment selection would include any combination of the following measures as the Town determines to be necessary to decrease cancer risks below the threshold of 10 excess cancer cases in one million for infants:*

- a. Diesel-powered compressors and all diesel-fueled equipment used during building construction shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent;*
- b. Use alternative-powered equipment (e.g., LPG-powered forklifts);*
- c. Use alternative fuels (e.g., biofuels), added exhaust devices; and/or*
- d. Minimize the number of hours that equipment will operate including the use of idling restrictions.*

## **ODORS**

### **Impact 4.8-5: Project implementation would not create objectionable odors affecting a substantial number of people. (Less Than Significant)**

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The project does not include any uses identified by the BAAQMD as being associated with odors.

Construction activity associated with the project could generate detectable odors from the operation of diesel construction equipment on-site, as well as from architectural coatings and asphalt off-gasing. Odors generated during construction activities would be short-term in nature and would cease soon after project completion. Any impacts to existing adjacent land uses would be short-term and are considered less than significant because they would be temporary and would not affect a substantial number of people.

***Mitigation Measure 4.8-5: None required.***

**REFERENCES - AIR QUALITY**

- Bay Area Air Quality Management District, 2011. *CEQA Air Quality Guidelines*. Adopted June 2010; updated May 2011 and May 2012. Available online at <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx>.
- Bay Area Air Quality Management District, 2009. *Revised Draft Options and Justification Report*. October. Available online at: <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx>.
- Buccanneer Demolition, Inc., 2013. *Demolition Debris Calculation and Equipment Survey Prepared for Sisters of the Holy Names of Jesus and Mary*. July 22.
- California Air Resources Board (CARB), 2010, 2011, 2012. Aerometric Data Analysis and Measurement System (ADAM) Summaries. Available online at <http://www.arb.ca.gov/adam/>.
- California Air Resources Board (CARB), 2010, 2011, 2012. Quality Assurance Air Monitoring Site Information Summaries. Available online at <http://www.arb.ca.gov/qaweb/siteinfo.php>.
- Illingworth & Rodkin, Inc., 2013. *Sisters of the Holy Names of Jesus and Mary Residential Subdivision Project, Air Quality and Greenhouse Gas Emissions Assessment, Los Gatos, California*. April 2. (Included as Appendix H of this EIR)

## 4.9 GREENHOUSE GAS EMISSIONS

This section evaluates greenhouse gas (GHG) emissions associated with the proposed project and analyzes project compliance with applicable regulations. Consideration of the project's consistency with applicable plans, policies, and regulations, as well as the introduction of new sources of GHGs, is included in this section. The following analysis is based upon a detailed air quality and greenhouse gas assessment completed by Illingworth & Rodkin, Inc. for the proposed project in April 2013, which is included as **Appendix H** of this EIR. Modeling assumptions and output results are included in Attachment 1 of the Air Quality and Greenhouse Gas Assessment in Appendix H. This assessment is available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>1</sup>

### 4.9.1 ENVIRONMENTAL SETTING

#### GREENHOUSE GASES

The natural process through which heat is retained in the troposphere is called the "greenhouse effect."<sup>2</sup> The greenhouse effect traps heat in the troposphere through a three-fold process, summarized as follows: short wave radiation emitted by the Sun is absorbed by the Earth; the Earth emits a portion of this energy in the form of long wave radiation; and GHGs in the upper atmosphere absorb this long wave radiation and emit this long wave radiation into space and toward the Earth. This "trapping" of the long wave (thermal) radiation emitted back toward the Earth is the underlying process of the greenhouse effect.

The most abundant GHGs are water vapor and carbon dioxide. Many other trace gases have greater ability to absorb and re-radiate long wave radiation; however, these gases are not as plentiful. For this reason, and to gauge the potency of GHGs, scientists have established a Global Warming Potential (GWP) for each GHG based on its ability to absorb and re-radiate long wave radiation.

GHGs normally associated with the proposed project include the following:<sup>3</sup>

- *Water Vapor (H<sub>2</sub>O)*. Although water vapor has not received the scrutiny of other GHGs, it is the primary contributor to the greenhouse effect. Natural processes, such as evaporation from oceans and rivers, and transpiration from plants, contribute 90% and 10% of the water vapor in our atmosphere, respectively. The primary human-related source of water vapor comes from fuel combustion in motor vehicles; however, this is not believed to contribute a significant amount

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<sup>1</sup> [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR)

<sup>2</sup> The troposphere is the bottom layer of the atmosphere, which varies in height from the Earth's surface to 10 to 12 kilometers.

<sup>3</sup> All Global Warming Potentials are given as 100 year GWP. Unless noted otherwise, all Global Warming Potentials were obtained from the Intergovernmental Panel on Climate Change.

(less than one percent) to atmospheric concentrations of water vapor. The Intergovernmental Panel on Climate Change (IPCC) has not determined a GWP for water vapor.

- *Carbon Dioxide (CO<sub>2</sub>)*. CO<sub>2</sub> is primarily generated by fossil fuel combustion in stationary and mobile sources. Due to the emergence of industrial facilities and mobile sources in the past 250 years, the concentration of CO<sub>2</sub> in the atmosphere has increased 36% (USEPA, 2010). CO<sub>2</sub> is the most widely emitted GHG and is the reference gas (GWP of 1) for determining GWPs for other GHGs.
- *Methane (CH<sub>4</sub>)*. CH<sub>4</sub> is emitted from biogenic sources, incomplete combustion in forest fires, landfills, manure management, and leaks in natural gas pipelines. In the United States, the top three sources of CH<sub>4</sub> are landfills, natural gas systems, and enteric fermentation. CH<sub>4</sub> is the primary component of natural gas, which is used for space and water heating, steam production, and power generation. The GWP of CH<sub>4</sub> is 21.
- *Nitrous Oxide (N<sub>2</sub>O)*. N<sub>2</sub>O is produced by both natural and human related sources. Primary human related sources include agricultural soil management, animal manure management, sewage treatment, mobile and stationary combustion of fossil fuel, adipic acid production, and nitric acid production. The GWP of N<sub>2</sub>O is 310.
- *Hydrofluorocarbons (HFCs)*. HFCs are typically used as refrigerants for both stationary refrigeration and mobile air conditioning. The use of HFCs for cooling and foam blowing is growing, as the continued phase out of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) gains momentum. The GWP of HFCs range from 140 for HFC-152a to 11,700 for HFC-23 (USEPA, 2012).
- *Perfluorocarbons (PFCs)*. PFCs are compounds consisting of carbon and fluorine. They are primarily created as a byproduct of aluminum production and semi conductor manufacturing. PFCs are potent GHGs with a GWP several thousand times that of CO<sub>2</sub>, depending on the specific PFC. Another area of concern regarding PFCs is their long atmospheric lifetime (up to 50,000 years; USEPA, 2012). The GWP of PFCs range from 6,500 to 9,200.
- *Sulfur hexafluoride (SF<sub>6</sub>)*. SF<sub>6</sub> is a colorless, odorless, nontoxic, nonflammable gas. It is most commonly used as an electrical insulator in high voltage equipment that transmits and distributes electricity. SF<sub>6</sub> is the most potent GHG that has been evaluated by the Intergovernmental Panel on Climate Change with a GWP of 23,900. However, its global warming contribution is not as high as the GWP would indicate due to its low mixing ratio compared to carbon dioxide (4 parts per trillion [ppt] in 1990 versus 365 parts per million [ppm], respectively; USEPA, 2012).

In addition to the six major GHGs discussed above (excluding water vapor), many other compounds have the potential to contribute to the greenhouse effect. Some of these substances were previously identified

as stratospheric ozone (O<sub>3</sub>) depletors; therefore, their gradual phase out is currently in effect. The following is a listing of these compounds:

- *Hydrochlorofluorocarbons (HCFCs)*. HCFCs are solvents, similar in use and chemical composition to CFCs. The main uses of HCFCs are for refrigerant products and air conditioning systems. As part of the Montreal Protocol, all developed countries that adhere to the Montreal Protocol are subject to a consumption cap and gradual phase out of HCFCs. The United States is scheduled to achieve a 100% reduction to the cap by 2030. The GWPs of HCFCs range from 93 for HCFC-123 to 2,000 for HCFC-142b (USEPA, 2006a).
- *1,1,1 trichloroethane*. 1,1,1 trichloroethane or methyl chloroform is a solvent and degreasing agent commonly used by manufacturers. The GWP of methyl chloroform is 110 times that of CO<sub>2</sub> (USEPA, 2006a).
- *Chlorofluorocarbons (CFCs)*. CFCs are used as refrigerants, cleaning solvents, and aerosols spray propellants. CFCs were also part of the U.S. Environmental Protection Agency's (USEPA) Final Rule (57 FR 3374) for the phase out of O<sub>3</sub> depleting substances. Currently, CFCs have been replaced by HFCs in cooling systems and a variety of alternatives for cleaning solvents. Nevertheless, CFCs remain suspended in the atmosphere contributing to the greenhouse effect. CFCs are potent GHGs with GWPs ranging from 4,600 for CFC 11 to 14,000 for CFC 13 (USEPA, 2006a; 2006b).

## 4.9.2 REGULATORY AND PLANNING FRAMEWORK

### FEDERAL

The Federal Clean Air Act (FCAA) requires the EPA to define national ambient air quality standards (national standards) to protect public health and welfare in the United States. The FCAA does not specifically regulate GHG emissions; however, on April 2, 2007 the U.S. Supreme Court in *Massachusetts v. U.S. Environmental Protection Agency*, determined that GHGs are pollutants that can be regulated under the FCAA. The EPA adopted an endangerment finding and cause or contribute finding for GHGs on December 7, 2009. Under the endangerment finding, the Administrator found that the current and projected atmospheric concentrations of the six, key, well-mixed GHGs (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFCs, PFCs, and SF<sub>6</sub>) threaten the public health and welfare of current and future generations. Under the cause or contribute finding, the Administrator found that the combined emissions of these well-mixed GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution, which threatens public health and welfare.

Based on these findings, on April 1, 2010, the EPA finalized the light-duty vehicle rule controlling GHG emissions. This rule confirmed January 2, 2011 as the earliest date that a 2012 model year vehicle meeting these rule requirements may be sold in the United States. On May 13, 2010, the EPA issued the final GHG Tailoring Rule. This rule set thresholds for GHG emissions that define when permits under

the Prevention of Significant Deterioration and Title V Operating Permit programs are required for new and existing industrial facilities. Implementation of the federal rules is expected to reduce the level of emissions from new motor vehicles and large stationary sources.

## STATE

Various statewide and local initiatives to reduce California's contribution to GHG emissions have raised awareness that, even though the various contributors to and consequences of global climate change are not yet fully understood. Every nation emits GHGs and as a result makes an incremental cumulative contribution to global climate change; therefore, global cooperation will be required to reduce the rate of GHG emissions enough to slow or stop the human-caused increase in average global temperatures and associated changes in climatic conditions.

**Executive Order S-1-07.** Executive Order S-1-07 proclaims that the transportation sector is the main source of GHG emissions in California, generating more than 40% of statewide emissions. It establishes a goal to reduce the carbon intensity of transportation fuels sold in California by at least 10% by 2020. This order also directs CARB to determine whether this Low Carbon Fuel Standard (LCFS) could be adopted as a discrete early-action measure as part of the effort to meet the mandates in AB 32.

**Executive Order S-3-05.** Executive Order S-3-05 sets forth a series of target dates by which statewide emissions of GHGs would be progressively reduced, as follows:

- By 2010, reduce GHG emissions to 2000 levels;
- By 2020, reduce GHG emissions to 1990 levels; and
- By 2050, reduce GHG emissions to 80% below 1990 levels.

The Executive Order directed the secretary of the California Environmental Protection Agency (Cal/EPA) to coordinate a multi-agency effort to reduce GHG emissions to the target levels. The secretary will also submit biannual reports to the governor and California Legislature describing the progress made toward the emissions targets, the impacts of global climate change on California's resources, and mitigation and adaptation plans to combat these impacts. To comply with the executive order, the secretary of Cal/EPA created the California Climate Action Team (CAT), made up of members from various State agencies and commissions. The team released its first report in March 2006. The report proposed to achieve the targets by building on the voluntary actions of California businesses, local governments, and communities and through State incentive and regulatory programs.

**Executive Order S-13-08.** Executive Order S-13-08 seeks to enhance the State's management of climate impacts including sea level rise, increased temperatures, shifting precipitation, and extreme weather events by facilitating the development of State's first climate adaptation strategy. This will result in consistent guidance from experts on how to address climate change impacts in the State of California.

**Executive Order S-14-08.** Executive Order S-14-08 expands the State's Renewable Energy Standard to 33% renewable power by 2020. Additionally, Executive Order S-21-09 (signed on September 15, 2009) directs CARB to adopt regulations requiring 33% of electricity sold in the State come from renewable energy by 2020. CARB adopted the "Renewable Electricity Standard" on September 23, 2010, which requires 33% renewable energy by 2020 for most publicly owned electricity retailers.

**Executive Order S-20-04.** Executive Order S-20-04, the California Green Building Initiative, (signed into law on December 14, 2004), establishes a goal of reducing energy use in State-owned buildings by 20% from a 2003 baseline by 2015. It also encourages the private commercial sector to set the same goal. The initiative places the California Energy Commission (CEC) in charge of developing a building efficiency benchmarking system, commissioning and retro-commissioning (commissioning for existing commercial buildings) guidelines, and developing and refining building energy efficiency standards under Title 24 to meet this goal.

**Executive Order S-21-09.** Executive Order S-21-09, 33% Renewable Energy for California, directs CARB to adopt regulations to increase California's Renewable Portfolio Standard (RPS) to 33% by 2020. This builds upon SB 1078 (2002), which established the California RPS program, requiring 20% renewable energy by 2017, and SB 107 (2006), which advanced the 20% deadline to 2010, a goal which was expanded to 33% by 2020 in the 2005 Energy Action Plan II.

**Assembly Bill 32 (California Global Warming Solutions Act of 2006).** California passed the California Global Warming Solutions Act of 2006 (AB 32; *California Health and Safety Code* Division 25.5, Sections 38500 - 38599). AB 32 establishes regulatory, reporting, and market mechanisms to achieve quantifiable reductions in GHG emissions and establishes a cap on statewide GHG emissions. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020. AB 32 specifies that regulations adopted in response to AB 1493 should be used to address GHG emissions from vehicles. However, AB 32 also includes language stating that if the AB 1493 regulations cannot be implemented, then CARB should develop new regulations to control vehicle GHG emissions under the authorization of AB 32.

**Assembly Bill 341 – Mandatory Commercial Recycling.** According to 2008 Statewide Waste Characterization data, the commercial sector generates nearly three-fourths of the solid waste in California. Much of the commercial sector waste disposed in landfills is readily recyclable. Increasing the recovery of recyclable materials will directly reduce GHG emissions. In particular, recycled materials can reduce the GHG emissions from multiple phases of product production, including extraction of raw materials, pre-processing and manufacturing. A co-benefit of increased recycling is a reduction of methane emissions at landfills from the decomposition of organic materials. Use of composted organic materials also provides environmental benefits such as carbon storage in soils and reduced use of fertilizers, pesticides, and water. Chapter 476, Statutes of 2011 (Chesbro, AB 341) sets forth the requirements of the statewide mandatory commercial recycling program.

For local governments, each jurisdiction must implement a commercial solid waste recycling program that consists of education, outreach and monitoring of businesses, that is appropriate for that jurisdiction and is designed to divert commercial solid waste from businesses, whether or not the jurisdiction has met the requirements of PRC Section 41780.

**Assembly Bill 1493.** AB 1493 (also known as the Pavley Bill) requires that CARB develop and adopt, by January 1, 2005, regulations that achieve “the maximum feasible reduction of GHG emitted by passenger vehicles and light-duty trucks and other vehicles determined by CARB to be vehicles whose primary use is non-commercial personal transportation in the State.”

To meet the requirements of AB 1493, CARB approved amendments to the California Code of Regulations (CCR) in 2004 by adding GHG emissions standards to California’s existing standards for motor vehicle emissions. Amendments to CCR Title 13, Sections 1900 and 1961 and adoption of 13 CCR Section 1961.1 require automobile manufacturers to meet fleet-average GHG emissions limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty weight classes for passenger vehicles (i.e., any medium-duty vehicle with a gross vehicle weight rating less than 10,000 pounds that is designed primarily to transport people), beginning with the 2009 model year. Emissions limits are reduced further in each model year through 2016. When fully phased in, the near-term standards will result in a reduction of about 22% in GHG emissions compared to the emissions from the 2002 fleet, while the mid-term standards will result in a reduction of about 30%.

**Assembly Bill 3018.** AB 3018 established the Green Collar Jobs Council (GCJC) under the California Workforce Investment Board (CWIB). The GCJC will develop a comprehensive approach to address California’s emerging workforce needs associated with the emerging green economy. This bill will ignite the development of job training programs in the clean and green technology sectors.

**Senate Bill 97.** SB 97, signed in August 2007 (Chapter 185, Statutes of 2007; PRC Sections 21083.05 and 21097), acknowledges that climate change is a prominent environmental issue that requires analysis under CEQA. This bill directs the Governor’s Office of Planning and Research (OPR) and the State Natural Resources Agency to prepare, develop, and transmit to CARB guidelines for the feasible mitigation of GHG emissions (or the effects of GHG emissions), as required by CEQA.

The Natural Resources Agency adopted the *CEQA Guidelines Amendments* prepared by OPR, as directed by SB 97. On February 16, 2010, the Office of Administration Law approved the *CEQA Guidelines Amendments*, and filed them with the Secretary of State for inclusion in the California Code of Regulations. The *CEQA Guidelines Amendments* became effective on March 18, 2010. In response to these amendments, the Bay Area Air Quality Management District (BAAQMD) established significance thresholds for the Bay Area (discussed below under BAAQMD) to determine the significance of a project’s GHG emissions and level of GHG reduction needed to mitigate a project’s impact to less than significant. One of these thresholds is “compliance with a Qualified Climate Action Plan.” The Town of Los Gatos adopted such a plan (Los Gatos Sustainability Plan) on October 15, 2012 and GHG reduction

measures are presented below and the project's consistency with these measures is discussed below under Impact 4.9-2.

**Senate Bill 375.** SB 375, signed in September 2008 (Chapter 728, Statutes of 2008), aligns regional transportation planning efforts, regional GHG reduction targets, and land use and housing allocation. SB 375 requires Metropolitan Planning Organizations (MPOs) to adopt a sustainable communities strategy (SCS) or alternative planning strategy (APS) that will prescribe land use allocation in that MPOs regional transportation plan. CARB, in consultation with MPOs, will provide each affected region with reduction targets for GHGs emitted by passenger cars and light trucks in the region for the years 2020 and 2035. These reduction targets will be updated every eight years but can be updated every four years if advancements in emissions technologies affect the reduction strategies to achieve the targets. CARB is also charged with reviewing each MPO's SCS or APS for consistency with its assigned targets. If MPOs do not meet the GHG reduction targets, transportation projects may not be eligible for funding programmed after January 1, 2012.

**Senate Bills 1078 and 107.** SB 1078 (Chapter 516, Statutes of 2002) requires retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20% of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010.

**Senate Bill 1368.** SB 1368 (Chapter 598, Statutes of 2006) is the companion bill of AB 32 and was signed into law in September 2006. SB 1368 required the California Public Utilities Commission (CPUC) to establish a performance standard for baseload generation of GHG emissions by investor-owned utilities by February 1, 2007. SB 1368 also required the CEC to establish a similar standard for local publicly owned utilities by June 30, 2007. These standards could not exceed the GHG emissions rate from a baseload combined-cycle, natural gas-fired plant. Furthermore, the legislation states that all electricity provided to California, including imported electricity, must be generated by plants that meet the standards set by CPUC and CEC.

**Senate Bill X1 2.** SB X1 (Chapter 1, Statutes of 2011, 1st Ex. Sess., ch. 1) codified in statute the State's obligation to produce at least 33% of electricity from renewable sources. (See Pub. Resources Code, § 25740.)

**CARB Scoping Plan.** On December 11, 2008, CARB adopted its Scoping Plan, which functions as a roadmap to achieve GHG reductions in California required by AB 32 through subsequently enacted regulations. CARB's Scoping Plan contains the main strategies California will implement to reduce CO<sub>2</sub>e emissions by 174 million metric tons (MT), or approximately 30%, from the State's projected 2020 emissions level of 596 million MT CO<sub>2</sub>e<sup>4</sup> under a business as usual (BAU)<sup>5</sup> scenario. This is a reduction

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<sup>4</sup> Carbon Dioxide Equivalent (CO<sub>2</sub>e): A metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

of 42 million MT CO<sub>2</sub>e, or almost 10%, from 2002 to 2004 average emissions, but requires the reductions in the face of population and economic growth through 2020.

CARB's Scoping Plan calculates 2020 BAU emissions as the emissions that would be expected to occur in the absence of any GHG reduction measures. The 2020 BAU emissions estimate was derived by projecting emissions from a past baseline year using growth factors specific to each of the different economic sectors (e.g., transportation, electrical power, commercial and residential, industrial, etc.). CARB used three-year average emissions, by sector, for 2002 to 2004 to forecast emissions to 2020. At the time CARB's Scoping Plan process was initiated, 2004 was the most recent year for which actual data was available. The measures described in CARB's Scoping Plan are intended to reduce the projected 2020 BAU to 1990 levels, as required by AB 32.

Implementation of the Scoping Plan was challenged in court as being inconsistent with AB 32 as well as not complying with CEQA. In *Association of Irrigated Residents v. California Air Resources Board*, the Superior Court of California for the County of San Francisco (Superior Court) issued a "tentative statement of decision" (Tentative Decision) that prevents CARB from implementing a state-wide GHG regulatory program under AB 32 until the agency complies with the requirements of CEQA. Although the Superior Court denied all claims related to AB 32, the court found that CARB: 1) failed to adequately discuss and analyze the impacts of alternatives in its proposed Scoping Plan as required by its CEQA implementing regulations; and 2) improperly approved the Scoping Plan prior to completing the environmental review required by CEQA. In upholding the Petitioners' challenge on these two CEQA issues, the Superior Court issued a Peremptory Writ of Mandate and enjoined CARB from further implementation of the Scoping Plan until it complied with all CEQA requirements.

On March 18, 2011, the Superior Court issued its Final Statement of Decision, which is substantially similar to the Tentative Decision. The Superior Court ruled in favor of CARB concerning AB 32 mandates and how to best reach the GHG reduction goals set by AB 32. However, the Superior Court determined that CARB failed to conduct adequate CEQA review for the Scoping Plan. Specifically, the Superior Court concluded that CARB failed to consider adequate alternatives to the mix of measures adopted in the Scoping Plan, especially alternatives to cap-and-trade measures, and that CARB improperly began implementing the Scoping Plan measures before its CEQA review process was complete. Therefore, the Superior Court has suspended any further implementation of the measures contained in the Scoping Plan until the State has complied with CEQA.

On June 19, 2012, the California First District Court of Appeal ruled in favor of CARB and upheld the Scoping Plan. The decision, which is now final, also found the Scoping Plan to be in compliance with

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<sup>5</sup> "Business as Usual" refers to emissions that would be expected to occur in the absence of GHG reductions. See <http://www.arb.ca.gov/cc/inventory/data/forecast.htm>. Note that there is significant controversy as to what BAU means. In determining the GHG 2020 limit, CARB used the above as the "definition." It is broad enough to allow for design features to be counted as reductions.

AB 32. The Court determined the entirety of the Scoping Plan “reflects an exercise of sound judgment” and was not arbitrary or capricious. CARB began the cap-and-trade portion of the Scoping Plan on January 1, 2012 and the enforceable compliance obligation began on January 1, 2013. The program is a central element of AB 32 and covers major sources of GHG emissions in the State such as refineries, power plants, industrial facilities, and transportation fuels. The regulation includes an enforceable GHG cap that will decline over time. CARB will distribute allowances, which are tradable permits, equal to the emission allowed under the cap. In addition, CARB is implementing carbon offsets to reduce GHG emissions in sectors such as agriculture and forestry that are not included directly under the cap-and-trade regulation. For example, forests can be managed to ensure that they increase the total amount of carbon stored in the trees, thus removing additional carbon dioxide from the atmosphere. Each offset credit equals one metric ton of carbon dioxide (CARB, 2012). The proposed project would not be required to comply with the CARB’s Cap-and-Trade Program, although carbon offsets could be utilized.

## REGIONAL

**Bay Area Air Quality Management District (BAAQMD).** Under *CEQA*, the BAAQMD is a responsible agency on air quality and GHG emissions within its jurisdiction or impacting its jurisdiction. The BAAQMD’s approach to developing a threshold of significance for GHG emissions is to identify the emissions level for which a project would not be expected to substantially conflict with existing California legislation adopted to reduce statewide GHG emissions needed to move us towards climate stabilization. If a project would generate GHG emissions above the threshold level, it would be considered to contribute considerably to a significant cumulative impact.

In 2010, the BAAQMD adopted new *CEQA* significance thresholds for criteria pollutants and GHGs to assist lead agencies in evaluating air quality impacts of projects and plans proposed in the SFBAAB. The 2010 BAAQMD *CEQA Guidelines* provided BAAQMD-recommended procedures for evaluating potential air quality and GHG impacts during the environmental review process.

On March 5, 2012, the Alameda County Superior Court issued a judgment finding that the BAAQMD had failed to comply with *CEQA* when it adopted the *CEQA* significance thresholds in its *CEQA Guidelines*. On August 13, 2013, the California Court of Appeal reversed the Alameda County Superior Court judgment that invalidated the BAAQMD’s *CEQA* thresholds of significance. In a published ruling, the Court directed that the Superior Court vacate the writ of mandate issued in March 2012, ordering the BAAQMD to set aside its June 2010 resolution (Res. #2010-06) “Adopting Thresholds for Use in Determining the Significance of Projects’ Environmental Effects Under the California Environmental Quality Act.” Therefore, the 2010/2011 BAAQMD *CEQA* Air Quality Guidelines and significance thresholds will be back in effect as soon as the Superior Court complies with the appellate court ruling.

Exercising its own discretion as lead agency, the Town of Los Gatos has decided to rely on the thresholds within the *Options and Justification Report* (dated October 2009) prepared by the BAAQMD. The BAAQMD *Options and Justification Report* establishes thresholds based on substantial evidence and are

consistent with the thresholds outlined in the 2010 CEQA Air Quality Guidelines. Town staff believes that these recommendations still represent the best available science on the subject of what constitutes significant air quality and/or GHG effects in the SFBAAB for this project. Therefore, the BAAQMD's thresholds are used to analyze the project's GHG impacts on climate change.

## LOCAL

In April 2008, the Town adopted the following near-term policy recommendations from the Santa Clara County Cities Association Green Building Collaborative:

- Formally recognize and adopt the U.S. Green Building Council's LEED Rating system and Build It Green's GreenPoint Rated System (residential) as the official green building standards.
- Require the submittal of a completed LEED or GreenPoint Rated checklist as part of a planning application.
- Adopt a policy for achieving LEED Silver certification or better for all new public construction and renovation projects over 5,000 square feet.

In 2008, the Town also passed a resolution adopting the Cities for Climate Protection Campaign (CCP) led by the International Council for Local Environmental Initiatives (ICLEI) Local Governments for Sustainability. Jurisdictions that join the CCP commit to a five-step process:

1. Measure emissions of GHG's;
2. Commit to an emissions reduction target associated with a specific target year;
3. Adopt specific measures or take specific actions, described in a local plan, to reach the reduction target;
4. Implement the local plan; and
5. Monitor emissions reductions achieved by implementing the plan

This five-step process was consolidated into the Los Gatos Sustainability Plan, which was adopted by the Town Council on October 15, 2012. The Sustainability Plan is a key tool in implementing the 2020 General Plan update that has promoting sustainability as a strong objective. The plan contains a comprehensive long-range strategy to achieve sustainability in transportation, land use, energy conservation, water use, solid waste reduction and open space preservation. To fully implement the Sustainability Plan, though, the Town Council must take a number of future steps, such as adopting a Green Building Ordinance and developing GreenPoint Rated Building Guidelines. Consistency of any proposed project or program with the Sustainability Plan is one of the criteria used to determine the significance of a project's GHG emissions under CEQA. Because many of the Plan's most stringent aspects will only become fully operational when such future measures are in place, however, compliance with existing Sustainability Plan requirements, by itself, is not sufficient at this time to support a determination that a project's greenhouse gas emissions are less than significant by definition.

The Sustainability Plan documents that there are a variety of mandatory GHG reduction programs that are in various stages of implementation. These programs would substantially reduce project-related GHG emissions below their BAU assumption. Major programs include:

- Corporate Average Fuel Efficiency
- Low Carbon Fuel Standard
- Renewable Portfolio Standard
- Smart Grid Deployment Plan
- CALGreen Building Code
- Solid Waste Reduction

By 2020, the Sustainability Plan documents that GHG emissions will be reduced by approximately 30% from the business-as-usual (BAU) assumption. The emissions reduction varies by sector generally within a range of 20% to 40%. The Sustainability Plan contains GHG reduction measures and implements goals and policies of the Environment and Sustainability Element of the General Plan. As indicated below, most of the Sustainability Plan's GHG reduction measures would apply to future home designs and each home's consistency with these measures will need to be evaluated during A&S review. However, the project's initial phases of demolition and construction would not conflict with the Sustainability Plan and associated General Plan policies. Project consistency with these policies is discussed in the following project consistency analysis table.

#### **Sustainability Plan GHG Reduction Measures**

*GB-1: Green Building Ordinance. Develop a Green Building Ordinance that requires energy-efficient design, in excess of Title 24 standards, for all new residential and non-residential buildings. When developing the Ordinance, consider development-level thresholds for when certain requirements are triggered.*

- *Require 30 percent above the 2008 Building and Energy Efficiency standards in Title 24 to coincide with the Voluntary Tier 2 standards of the California Green Building Code (CALGreen).*
- *Encourage the use of cement substitutes and recycled building materials for new construction.*

*EC-1: Energy-Efficient Appliances and Lighting. Require new development to use energy-efficient appliances that meet ENERGY STAR standards and energy-efficient lighting technologies that exceed Title 24 standards by 30%.*

*GB-2 GreenPoint Rated Building Guidelines. Require all new and significantly remodeled homes to follow the Town's adopted GreenPoint Rated Building Guidelines. Significantly remodeled homes include remodels of 50 percent or more of the square footage or wall area of the home, and addition as of 50 percent or more of the square footage or wall area of the home.*

#### **Project Consistency Analysis**

Although the Town has not yet adopted a Green Building Ordinance that would require projects to achieve energy efficiency 30% greater than required by the 2008 version of Title 24, the timing of project homes is currently unknown and therefore, this ordinance may be in effect at the time of home construction. If in effect at the time of future home construction on project lots, home designs would have to comply with this ordinance. Existing concrete on the project site would be crushed and reused on the project site, which would be consistent with Policy GB-1. During A&S review, proposed home designs and appliance/lighting specifications will be evaluated for consistency with Policy EC-1.

Project homes will be subject to A&S review, and each applicant will be required to complete a GreenPoint Rated checklist for the proposed home design. Depending on the size of the house, green certification may be required when the building permit is issued. Typically, a green certification is required if a house is larger than 3,500 square feet.

<b>Sustainability Plan GHG Reduction Measures</b>	<b>Project Consistency Analysis</b>
<i>GB-3 Incentives for Green Building Certification. Allow greater flexibility and other incentives (e.g., permitting-related) for LEED Silver certification or equivalent GreenPoint rating, for example, by giving green projects priority in plan review and processing.</i>	The Town has not yet developed incentives for Green Building Certification, but since the timing of project homes is currently unknown, priority plan review and processing incentives may be in place at the time homes are proposed for construction and would be followed by the Town.
<i>GB-4: Solar Orientation. Require measures that reduce energy use through solar orientation by taking advantage of shade, prevailing winds, landscaping, and sun screens.</i>	Project homes will be subject to A&S review, and each applicant will be required to demonstrate that appropriate solar orientation has been incorporated into the proposed home design in order to maximize shade and prevailing winds.
<i>RE-2 New Solar Homes Partnership. Require that residential projects of six units or more participate in the California Energy Commission’s New Solar Homes Partnership, which provides rebates to developers of six or more units who offer solar power in 50 percent of new units and is a component of the California Solar Initiative, or a similar program with solar power requirements equal to or greater than those of the California Energy Commission’s New Solar Homes Partnership.</i>	Proposed home designs will be subject to A&S review, and the proposed project will be required to participate in the New Solar Homes Partnership.
<i>RE-5 Solar Ready Features. Where feasible, require that all new buildings be constructed to allow for the easy, cost effective installation of future solar energy systems. “Solar Ready” features should include: proper solar orientation (i.e., south facing roof area sloped at 20° to 55° from the horizontal); clear access on the south sloped roof (i.e., no chimneys, heating vents, or plumbing vents); electrical conduit installed for solar electric system wiring; plumbing installed for hot water system; and space provided for a solar hot water storage tank.</i>	Project homes will be subject to A&S review, and each applicant will need to incorporate solar ready features into the home design, where feasible.
<i>EC-2: Promotion of Energy Conservation. Partner with Pacific Gas &amp; Electric and other appropriate energy providers to promote energy conservation, including the following, which would be primarily funded by the energy providers:</i> <ul style="list-style-type: none"> <li>▪ <i>Promote the purchase of ENERGY STAR appliances.</i></li> <li>▪ <i>Promote individualized energy management planning and related services for large energy users.</i></li> <li>▪ <i>Fund and schedule energy efficiency retrofits or “tune-ups” of existing buildings.</i></li> <li>▪ <i>Pursue incentives and grants for energy conservation.</i></li> </ul>	The project would promote energy conservation by replacing 85,000 s.f. of older, less efficient buildings with 17 new homes that meet or exceed CALGreen building standards.  The Town has not yet coordinated with PG&E to promote energy conservation as contemplated by Policy EC-2. Although the timing of project homes is currently unknown, future homes may be subject to additional energy conservation requirements that may come out of this partnership.
<i>EC-3: Energy-Efficient Outdoor Lighting. Require outdoor lighting fixtures to be energy-efficient. Require parking lot light fixtures and light fixtures on buildings</i>	The project would replace older, less efficient outdoor lighting at the existing convent facility with more energy efficient fixtures. In addition, project homes will

**Sustainability Plan GHG Reduction Measures**

*to be on full cut-off fixtures, except emergency exit or safety lighting, and all permanently installed exterior lighting shall be controlled by either a photocell or an astronomical time switch. Prohibit continuous all night outdoor lighting in construction sites unless required for security reasons.*

*WW-1: Water Use and Efficiency Requirements. For new development, require all water use and efficiency measures identified as voluntary in the California Green Building Standards Code, and consider more stringent targets. California Green Building Standards Code requirements include: 1) reduce indoor potable water use by 20 percent after meeting the Energy Policy Act of 1992 fixture performance requirements, and 2) reduce outdoor potable water use by 50 percent from a calibrated mid-summer baseline case, for example, through irrigation efficiency, plant species, recycled wastewater, and captured rainwater. Establish Town requirements for discretionary projects regarding watering timing, water-efficient irrigation equipment, water-efficient fixtures, and offsetting demand so that there is no net increase in imported water use. Include clear parameters for integrating water conservation infrastructure and technologies, including low-flush toilets and low-flow showerheads. As appropriate, partner with local water conservation companies on the development and implementation of this measure.*

*WW-3: Bay Friendly Landscaping. Require new development to use native plants or other appropriate non-invasive plants that are drought-tolerant, as described in the Bay Friendly Landscaping Guidelines, available at [StopWaste.org](http://StopWaste.org) and [BayFriendlyCoalition.org](http://BayFriendlyCoalition.org).*

*SW-1: Construction Waste Diversion. Revise the existing construction and demolition ordinance to require at least 50 percent diversion (i.e. reuse or recycling) of non-hazardous construction waste from disposal.*

*SW-3: Salvaged, Recycled-Content, and Local Construction Materials. Encourage the use of salvaged and recycle-content materials and other materials that have low production energy costs for building materials, hard surfaces, and non-plant landscaping. Require sourcing of construction materials locally, as feasible.*

**Project Consistency Analysis**

be subject to A&S review, and each applicant will need to incorporate energy-efficient outdoor lighting. The Town will prohibit continuous all night outdoor lighting during construction unless the Town determines that such lighting is required for security reasons.

The project would replace older, less efficient plumbing fixtures in existing buildings with 17 new homes that would incorporate all applicable CALGreen water use and efficiency measures, including voluntary measures. The Town has not yet established additional new requirements in excess of CALGreen requirements regarding watering timing, water-efficient irrigation equipment, water-efficient fixtures, and offsetting demand so that there is no net increase in imported water use. If the Town establishes these requirements prior to an applicant applying to construct residences, then the residences would be required to comply.

Project homes will be subject to A&S review, and each landscaping plan will need to use native plants or other appropriate non-invasive, drought-tolerant plants.

Diversion of 50 percent of construction waste for reuse or recycling is already required in the Town Building Code. In addition, Town Code requires developers to provide an opportunity for the public to salvage building materials from demolished structures (see Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-5 for more discussion).

As a condition of approval, the applicant will be encouraged to use salvaged and recycled construction materials, to the extent feasible.

### 4.9.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA AND THRESHOLDS

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, a project normally would have a significant effect on the environment if it would:

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

Exercising its own discretion as lead agency, the Town of Los Gatos has decided to rely on the thresholds within the *Options and Justification Report* (dated October 2009) prepared by the BAAQMD. The BAAQMD *Options and Justification Report* establishes thresholds that the Town finds are based on substantial evidence and are consistent with the thresholds outlined within the BAAQMD's 2010 CEQA Air Quality Guidelines. Town staff believes that these recommendations represent the best available science on the subject of what constitute significant GHG effects on climate change for this project. BAAQMD's recommended thresholds are as follows:

- Compliance with a Qualified Climate Action Plan or
- Meet one of the following thresholds:
  - 1,100 MT CO<sub>2</sub>e/year; or
  - 4.6 MT CO<sub>2</sub>e/service population (sp)/year (residents and employees)<sup>6</sup>

For purposes of this EIR, project compliance with the 1,100 MT CO<sub>2</sub>e/year threshold is used as the primary basis to determine significance. The project's consistency with operative goals and policies of the Sustainability Plan that are designed to avoid environmental impacts also is analyzed as a secondary basis for assessing significance. As explained earlier in this chapter, compliance with the current requirements of the Sustainability Plan is not sufficient by itself at this time to support a determination that a project's greenhouse gas emissions are less than significant by definition. Although the Plan contains a comprehensive long-range strategy to achieve sustainability in transportation, land use, energy conservation, water use, solid waste reduction and open space preservation, the Plan will not be fully implemented until the Town Council takes a number of future steps, such as adopting a Green Building Ordinance and developing GreenPoint Rated Building Guidelines. When these steps have been taken, the Town intends that compliance with the Plan and its implementing actions (e.g., the Green Building Ordinance) should be sufficient by itself to reduce projects' greenhouse gas emissions to less than

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<sup>6</sup> 2010/2011 BAAQMD CEQA Guidelines (p. D-22) indicate that this threshold can be applied to all project types (residential or commercial/retail only and mixed use).

significant levels. (See CEQA Section 15183.5 [compliance with the requirements of a plan to reduce greenhouse gas emissions may be sufficient to mitigate greenhouse gas emissions from individual projects to less than significant levels].)

## METHODOLOGY

The analysis of GHG emissions considers construction-related and operational impacts associated with the proposed project. As allowed by Section 15064.4 of the *CEQA Guidelines*, the significance of the project's GHG emissions has been determined based on the above applicable thresholds of significance. The Town has adopted a Sustainability Plan to address GHG reductions within the Town limits. Therefore, the analysis considers whether the project will meet or exceed BAAQMD's recommended quantitative thresholds and whether the project will be consistent with the operative sections of the Town's Sustainability Plan. For CEQA purposes, impacts are less than significant only if BAAQMD's quantitative criteria are satisfied.

The BAAQMD's 2010 recommended thresholds of significance include a threshold for operational GHG emissions but none for construction-related GHG emissions (BAAQMD, 2009). The BAAQMD recommends the significance of GHG construction-related emission impacts be determined in relation to meeting AB 32 GHG reduction targets. The BAAQMD further recommends, and encourages lead agencies to incorporate, best management practices (BMPs) to reduce GHG emissions during construction, as feasible and applicable (BAAQMD, 2012). Examples of BMPs could include, but are not limited to: ensuring that at least 15% of the construction fleet is comprised of alternatively-fueled (e.g., biodiesel, electric) vehicles/equipment; using at least 10% local building materials; and recycling or reusing at least 50% of construction waste or demolition materials.

The impact analysis in this section estimates the annual GHGs that would be emitted during project construction. In addition, this analysis estimates total annual GHGs that would be emitted from project operation for space heating/cooling, water/wastewater use, solid waste generation/disposal, and mobile source emissions from project-generated traffic. Total operational GHGs are then compared to the BAAQMD's operational GHG threshold of significance that applies to the project, which is 1,100 MT CO<sub>2</sub>e/year.

## CONSISTENCY WITH NUMERIC THRESHOLDS

**Impact 4.9-1: The project would not generate greenhouse gas emissions, either directly or indirectly, that could have a significant impact on the environment. (Less Than Significant)**

**Construction-related Emissions.** There would be direct project-related GHG emissions associated with construction activities. GHG emissions from construction would be 518 MT CO<sub>2</sub>e during the first year of construction and 120 MT CO<sub>2</sub>e during the subsequent year (or portion thereof until construction is completed). The BAAQMD has not adopted thresholds for GHGs associated with construction activities. However, the project's estimated emissions would not exceed BAAQMD's operational GHG significance

threshold of 1,100 MT CO<sub>2</sub>e/year. Although this threshold would not apply to construction-related emissions, it is an indicator that the project's construction-related emissions would be less than significant. In addition to quantifying a project's construction-related emissions, the BAAQMD recommends that best management practices (i.e., ensuring that at least 15% of the construction fleet is comprised of alternatively fueled (e.g., biodiesel, electric) vehicles/equipment; using at least 10% local building materials; and recycling or reusing at least 50% of construction waste or demolition materials) be implemented. The Town Building Code would require that at least 50% of construction waste or demolition materials be recycled or reused. In addition, implementation of Mitigation Measures 4.8-1a, 4.8-4a, and 4.8-4b, which would reduce equipment idling time, ensure equipment is operating properly, and limit the amount of haul truck use (limits on vehicle miles travelled or VMT), would also reduce construction-related GHG emissions.

**Operational GHG Emissions.** Direct project-related GHG emissions would include emissions from construction activities, area sources, and mobile sources. CalEEMod (Version 2011.1.1) was used to calculate GHG emissions that would be generated by the proposed demolition of existing facilities on the project site and eventual addition of 17 homes, roads, and infrastructure (see Attachment 1 of Appendix H for model assumptions and output). **Table 4.9-1** presents the estimated CO<sub>2</sub>e "Business As Usual" (BAU) project-related emissions. BAU emissions represent the unmitigated project-related operational GHG emissions, i.e. emissions without the incorporation of additional GHG reduction features. Estimated emission would not exceed the EIR's significance threshold of 1,100 metric tons (MT) of CO<sub>2</sub>e per year. When estimated project-related GHG emission increases are compared to this criterion, the project's operational GHG emissions would be less than significant.

**TABLE 4.9-1**  
**BUSINESS AS USUAL (BAU)**  
**PROJECT-RELATED OPERATIONAL GHG EMISSIONS**

Consumption Source	Project MT CO <sub>2</sub> e/year
Area	16.28
Energy	67.79
Solid Waste	160.63
Water	9.36
Mobile	<u>3.45</u>
Total	257.51
EIR Significance Threshold	1,100 MT CO <sub>2</sub> e
SOURCE: CalEEMod Output (see Attachment 1 of Appendix H)	

**Mitigation Measure 4.9-1:** None required.

## PLAN CONSISTENCY

### **Impact 4.9-2: The project would not conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing greenhouse gas emissions. (Less Than Significant)**

According to the CEQA Section 15183.5(b)(1), a plan for the reduction of greenhouse gas emissions should:

- Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;
- Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
- Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
- Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels; and
- Be adopted in a public process following environmental review.

The GHG reduction plan should identify goals, policies, and implementation measures that would achieve the goals of AB 32 for the entire community. The Town of Los Gatos has adopted a Sustainability Plan for the purpose of reducing the emissions of GHGs. The Sustainability Plan is a key tool in implementing the 2020 General Plan that has promoting sustainability as a strong objective. The plan contains a comprehensive long-range strategy to achieve sustainability in transportation, land use, energy conservation, water use, solid waste reduction and open space preservation. Consistency of any proposed project or program with the Sustainability Plan is one of the criteria used to determine the significance of a project's GHG emissions under CEQA. For reasons explained earlier in this chapter, compliance with the current requirements of the Sustainability Plan is not sufficient by itself at this time to support a determination that a project's greenhouse gas emissions are less than significant by definition, because the Plan will not be fully implemented until the Town Council takes a number of future steps, such as adopting a Green Building Ordinance and developing GreenPoint Rated Building Guidelines. When these steps have been taken, the Town intends that compliance with the Plan and its implementing actions should be sufficient by itself to reduce projects' greenhouse gas emissions to less than significant levels, consistent with CEQA Section 15183.5.

Even without these future actions, the Sustainability Plan already contains a number of binding GHG reduction measures. Thus, project consistency with pertinent GHG reduction measures are evaluated in

the project consistency analysis table above (see Section 4.9.2). As indicated in this table, most of the Sustainability Plan's GHG reduction measures would apply to future home designs and each home's consistency with these measures would be evaluated during A&S review to ensure compliance. However, the initial phases of demolition and road/infrastructure construction would not conflict with the Town's Sustainability Plan with compliance with Town Code requirements. As indicated above, the project would generate substantial amounts of construction waste and Town Code requires that at least 50 percent of construction waste be reused or recycled.

**Mitigation Measure 4.9-2:** *None required.*

#### REFERENCES – GREENHOUSE GAS EMISSIONS

Bay Area Air Quality Management District, 2010. *CEQA Air Quality Guidelines*. Updated May 2011 and May 2012. Available online at <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx>.

Bay Area Air Quality Management District, 2009. *Revised Draft Options and Justification Report*. October. Available online at: <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx><http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx>.

Town of Los Gatos, 2012. *Los Gatos Sustainability Plan*. July 25. Available online at: <http://www.town.los-gatos.ca.us/index.aspx?NID=1860>.

## 4.10 HAZARDS AND HAZARDOUS MATERIALS

A Phase I Environmental Site Assessment (Phase I ESA) was conducted for the project site by Cornerstone Earth Group (Cornerstone) in March 2013 (Cornerstone, 2013a). A follow-up Soil Quality Evaluation investigation was conducted in May 2013 to evaluate the potential presence of pesticides and associated metals in the soil associated with historic use of the property as orchards and spraying of pesticides for pest control (Cornerstone, 2013b). In addition, a limited asbestos and lead survey was conducted to identify asbestos-containing materials and lead-based paint in the existing buildings (RGA, 2013). Copies of these studies are available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>1</sup> The Phase I ESA and Soil Quality Evaluation are included as **Appendix J** of this EIR. The appendices to these reports are included in the online version and available for review at the Los Gatos Community Development Department.

This section relies on these documents, for information regarding the current use of hazardous materials at the project site, the potential for hazardous materials to be present in the buildings, and the potential for soil or groundwater contamination to be present. The Setting also includes a discussion of household hazardous wastes and wildland fire hazards, which supports the analysis of impacts that could occur as a result of project-related changes in land use.

### 4.10.1 ENVIRONMENTAL SETTING

*Hazardous materials*, defined in Section 25501(p) of the California Health and Safety Code, are materials that, because of their "quantity, concentration, or physical or chemical characteristics, pose a significant present or potential hazard to human health and safety or to the environment if released to the workplace or environment." Hazardous materials have been and are commonly used in commercial, agricultural, and industrial applications as well as in residential areas to a limited extent.

A waste is any material that is relinquished, recycled, or inherently waste-like. Title 22 of the California Code of Regulations (CCR), Chapter 11 (Identification and Listing of Hazardous Waste) contains regulations for the classification of hazardous wastes (22 CCR 66261.1, et seq.). A waste is considered a hazardous waste if it is toxic (causes human health effects), ignitable (has the ability to burn), corrosive (causes severe burns or damage to materials), or reactive (causes explosions or generates toxic gases) in accordance with the criteria established in Article 3 of Chapter 11. Articles 4 and 4.1 also list specific hazardous wastes and Article 5 identifies specific waste categories, including federal Resource Conservation and Recovery Act (RCRA) hazardous wastes, non-RCRA hazardous wastes, extremely hazardous wastes, hazardous wastes of concern, and special wastes. If improperly handled and if released

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<sup>1</sup> [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR)

to the soil, groundwater, or air (in the form of vapors, fumes, or dust), hazardous materials and wastes can result in public health hazards.

#### **EXISTING USES OF HAZARDOUS MATERIALS**

The existing convent filed a Hazardous Materials Management Plan with the Santa Clara County Central Fire District and County of Santa Clara Health Department in 1996 (Convent of the Holy Names, 1996). At the time this plan was filed, hazardous materials storage at the facility included 125 gallons of diesel stored in a double-walled aboveground tank. Based on site observations made for the Phase I ESA each building also has an elevator with hydraulically operated equipment, and one 55-gallon aboveground diesel storage drum with secondary containment is currently used for the emergency generator (Cornerstone, 2013a). Other hazardous materials used at the site primarily include commercially available maintenance chemicals, janitorial supplies, and gardening products that are typically stored in their original containers in metal cabinets or on shelving at various locations throughout the facility. At the time of the Phase I ESA, there were no indications of spills or leaks.

Small quantities of medical waste from the care center are shipped off-site to a licensed disposal facility. An environmental database review conducted in support of the Phase I ESA also indicates that the existing convent has historically manifested asbestos-containing waste for off-site disposal.

#### **SOIL AND GROUNDWATER QUALITY**

As discussed in the Phase I ESA (Cornerstone, 2013a), the proposed project site was used as orchards prior to development of the existing convent sometime between 1945 and 1950. Because pesticides were likely applied to the orchards in the normal course of farming operations, and because pesticides have historically been used to control pests near buildings at many sites, the Phase I ESA recommended soil sampling to assess the potential presence of pesticides and associated metals in the soil. A soil quality investigation conducted subsequently to the Phase I ESA included the collection of surface and near surface soil samples near the existing buildings where pesticides may have been applied for pest control, and in the garden and open areas that were historically used as orchards. The soil samples were analyzed for organopesticides and associated metals (arsenic and mercury). Samples were also analyzed for lead because of the proximity of the sampling locations to the buildings that are likely to have been painted with lead-based paint. A total of 59 samples were analyzed, including 49 surface soil samples to a depth of ½ foot and 10 soil samples from a depth of 1 to 1 ½ feet.

The maximum concentration of each metal detected is summarized in **Table 4.10-1** along with the California Human Health Screening Levels (CHHSLs) for residential land uses and California hazardous waste classification criteria. These screening levels and hazardous waste classification criteria are described below in Section 4.10.2, Regulatory Framework. As indicated in Table 4.10-1, the parameters that exceeded CHHSLs include arsenic, lead, chlordane, and dieldrin. These exceedances are as follows:

**TABLE 4.10-1**  
**ANALYTICAL RESULTS FOR SHALLOW SOIL SAMPLES**

	Maximum Sample Concentration, mg/kg <sup>a</sup>	Number of Detections	Number of Samples Analyzed	CHHSL <sup>b</sup> (mg/kg)	Hazardous Waste Classification Criteria		
					TCLP <sup>c</sup> (mg/L)	TTLC <sup>d</sup> (mg/kg)	STLC <sup>e</sup> (mg/L) <sup>f</sup>
Arsenic	<b>18</b>	24	24	0.07 <sup>g</sup>	5.0	500	5.0
Lead	<b>92</b>	50	50	80 <sup>h</sup>	5.0	1000	5.0
Mercury	0.55	9	9	18	0.2	20	0.2
Total DDT <sup>i</sup>	<b>1.87</b>	49	54	- <sup>j</sup>	-	1	0.1
Chlordane	<b>150</b>	10	54	0.43	0.03	2.5	0.25
alpha-Chlordane	31	16	54	-	-	-	-
gamma-Chlordane	29	12	54	-	-	-	-
Dieldrin	<b>0.097</b>	5	54	0.035	-	8.0	0.8
Heptachlor	0.003	1	54	0.13	0.008	4.7	0.47
Heptachlor Epoxide	0.014	4	54	0.061 <sup>k</sup>	0.008	4.7	0.47

NOTES: ***Bold italic*** indicates that value exceeds either the CHHSL or hazardous waste classification criteria

- a. mg/kg = milligrams per kilogram
- b. CHHSL = California human health screening levels developed by the California Environmental Protection Agency, see Section 4.10.2, Regulatory and Planning Framework, for a description of these screening levels.
- c. TCLP = toxicity characteristic leaching procedure. Because the TCLP involves a 20-to-1 dilution of the sample, the total concentration of a substance in the soil would need to exceed 20 times the regulatory level for the soluble concentration to exceed the regulatory level in the extract. See Section 4.10.2, Regulatory and Planning Framework, for a description of this waste classification criteria.
- d. TTLC = total threshold limit concentration, see Section 4.10.2, Regulatory and Planning Framework, for a description of this waste classification criteria
- e. STLC = soluble threshold limit concentration. The STLC is determined by a waste extraction test which involves a 10-to-1 dilution of the sample. Because of this, the total concentration of a substance would need to exceed 10 times the STLC for the soluble concentration to possibly exceed the STLC in the extract. See Section 4.10.2, Regulatory and Planning Framework, for a description of this waste classification criteria.
- f. mg/L = milligrams per liter
- g. As discussed in the text, the background level of arsenic is 11 mg/kg which is greater than the CHHSL of 0.07 mg/kg.
- h. This is the revised CHHSL for lead, determined by the Office of Environmental Health Hazard Assessment (OEHHA, 2009).
- i. Total DDT is the sum of DDT, DDE, and DDD concentrations identified. None of these parameters exceeded their respective CHHSLs, but the total DDT concentration exceeds California hazardous waste criteria in some samples. Therefore, only the total DDT concentration is reported in this table.
- j. A CHHSL or hazardous waste criteria has not been established for this parameter.
- k. A CHHSL has not been established for heptachlor epoxide. The value provided is the Regional Water Quality Control Board's Environmental Screening Level for residential land use (RWQCB, 2008).

SOURCES: Cornerstone, 2013b; CalEPA, 2005; OEHHA, 2009; RWQCB, 2008.

- With a maximum concentration of 18 milligrams per kilogram (mg/kg), all of the arsenic concentrations exceeded the CHHSL of 0.07 mg/kg, but only four of the concentrations exceeded the regional background level of 11 mg/kg.
- With a maximum concentration of 92 mg/kg, 12 of the lead concentrations exceeded the CHHSL of 80 mg/kg.

- Only two detected concentrations of chlordane exceeded the CHHSL of 0.43 mg/kg, and the concentrations were 3 and 150 mg/kg.
- Only one detected concentration of dieldrin exceeded the CHHSL of 0.035 mg/kg, and the concentration was 0.097 mg/kg.

Regarding waste classification, the total concentration of DDT exceeded the total threshold limit concentration (TTLC) of 1 mg/kg in 9 of the samples analyzed with a maximum concentration of 1.87 mg/kg. At a concentration of 150 mg/kg, Chlordane exceeded the TTLC of 2.5 mg/kg in one sample. None of the other metals or pesticide concentrations exceeded the TTLC. However, the concentration of lead exceeded ten times the soluble threshold limit concentration (STLC) in 12 of the samples analyzed, and it would be necessary to do a waste extraction test to determine if the excavated soil would be characterized as a hazardous waste based on soluble lead concentrations.

On the basis of these results, some of the soil in the vicinity of the Seraphine Building, Cortona Building, Greenhouse, Stone House, Marian Building, Pump House, Terraced Garden Area, and Garden/Landscape Areas could be considered a hazardous waste if excavated, but additional analyses would be necessary to fully make this conclusion in some areas. All of the metals and pesticide concentrations that exceeded CHHSLs or hazardous waste classification criteria were detected in shallow surface soil samples, indicating that only surface soil quality has been affected by pesticide application.

A 2,000-gallon unleaded gasoline underground storage tank (UST) was removed from the property in 1994 (Cornerstone, 2013a). At the time of removal, there was no indication of leakage, and petroleum products were not detected in two soil samples taken from native soil approximately two feet beneath the bottom of the UST. The removal was completed under the supervision of the Santa Clara County Fire Department.

Based on the environmental database review conducted for the Phase I ESA, there is a low potential the groundwater quality at the proposed project site could have been affected by off-site facilities.

#### **OVERVIEW OF HAZARDOUS BUILDING MATERIALS**

Hazardous building materials include asbestos-containing materials; electrical equipment, such as transformers and fluorescent light ballasts that contain polychlorinated biphenyls (PCBs) or 2 ethylhexyl phthalate (DEHP); fluorescent lights containing mercury vapors; and lead-based paints. They are included in this discussion because implementation of the proposed project would include demolition of the ten existing structures that may contain hazardous building materials that could present a public health risk if disturbed during an accident or during demolition or renovation of an existing building. If removed during demolition of a building, these materials would also require special disposal procedures.

Asbestos is a common name for a group of naturally occurring fibrous silicate minerals made up of thin but strong durable fibers. Because of its physical properties, asbestos was commonly used until the 1970s

as a building material, including use as insulation materials, shingles and siding, roofing felt, floor tiles, and acoustical ceiling material. Although banned from further manufacture at that time, the existing stocks of asbestos-containing materials were allowed to be sold and used after that time until those supplies were used up. Asbestos is a known carcinogen and presents a public health respiratory hazard if it is present in friable (easily crumbled) form. Long-term, chronic inhalation of high levels of asbestos can cause lung diseases, such as asbestosis, mesothelioma, and/or lung cancer (ATSDR, 2013). Activities that disturb materials containing greater than 0.1 percent of asbestos must be conducted in accordance with regulatory requirements for asbestos abatement, discussed below. Friable, finely divided and powdered waste containing greater than 1 percent asbestos is classified in the CCR as a hazardous waste that requires disposal at a licensed landfill (22 CCR Section 66261.24). Wastes containing non-friable asbestos are not considered hazardous and are not subject to regulation under 22 Section CCR 66001, et seq.

PCBs are mixtures of synthetic organic chemicals with physical properties ranging from oily liquids to waxy solids. Because of their non-flammability, chemical stability, high boiling point, and electrical insulating properties, PCBs were used historically in hundreds of industrial and commercial applications, including in electrical, heat transfer, and hydraulic equipment; as plasticizers in paints, plastic, and rubber compounds; in pigments, dyes, and carbonless copy paper; and many other applications. PCBs are a known human carcinogen; they are highly toxic substances that remain persistent in the environment, accumulate in biological systems, interfere with the reproductive system, and act as immuno-suppressants. Under Section 6(e) of the Toxic Substance Control Act (TSCA) (15 United States Code 2601, et seq.), Congress began regulating the use and manufacturing of PCBs in 1976, legislating “cradle to grave” (i.e., from manufacture to disposal) management of PCBs in the United States. Under the TSCA, the U.S. Environmental Protection Agency (USEPA) began to impose bans on PCB manufacturing and sales and on most PCB uses in 1978. TSCA requires incineration or an alternative destruction method for oils containing PCB concentrations greater than 50 parts per million (ppm) and requires that free liquids be drained from electrical equipment before disposal, and that the liquids are appropriately disposed of. In California, PCB wastes are regulated as hazardous waste if the PCB concentration exceeds 50 ppm or the soluble concentration exceeds 5 ppm as oily liquid (22 CCR Section 66261.24).

Most fluorescent light ballasts manufactured before 1978 contain PCBs in their capacitor and potting material. Ballasts manufactured after January 1, 1978, do not contain PCBs and should be labeled as such on the ballast. Approved disposal methods for PCB-containing ballasts depend on the condition of the ballast and the PCB content of the potting material and capacitor oil. If the PCB concentration of the potting material is less than 50 ppm and the ballast contains a small, intact, non-leaking capacitor, the ballast may be disposed of at a municipal landfill. In general, all leaking ballasts and ballasts containing potting material with PCB concentrations greater than or equal to 50 ppm must be incinerated or destroyed by alternative methods, disposed of in a hazardous waste landfill, or decontaminated using approved methods.

Between 1979 and the early 1990s, DEHP was used in place of PCB as a dielectric fluid in some fluorescent light ballasts and other electrical equipment (Green Lights Recycling, 2013). DEHP is classified as a probable human carcinogen by the U.S. Department of Health and Human Services and as a hazardous substance by the USEPA. Because of this, the DEHP must be drained from a ballast before it can be recycled, and the DEHP must be managed as a hazardous waste (DTSC, 2012).

Spent fluorescent lamps and tubes commonly contain mercury vapors and are considered a hazardous waste in California (22 CCR Section 66261.50). In 2004, new regulations classified all fluorescent lamps and tubes in California as a hazardous waste because they contain mercury. When these lamps or tubes are placed in the trash and collected for disposal, they can be broken and release mercury to the environment. Vapors and airborne dust containing mercury can be absorbed through the lungs into the bloodstream of people nearby and can be washed by rain into waterways. The mercury in urban stormwater sediment results in part from improperly discarded fluorescent lamps and tubes (CIWMB, 2013). Approximately 370 pounds of mercury were released in California in 2000 as a result of electric lamps and tubes breaking during storage and transportation. It is estimated that nearly 75 million waste fluorescent lamps and tubes are generated annually in California, and these lamps and tubes contain more than half a ton of mercury. Because they are considered a hazardous waste, all fluorescent lamps and tubes must be recycled or taken to a “universal waste” handler in accordance with 22 CCR Section 66273.8.

Lead-based paint was commonly used before its ban in the United States in 1978, and is likely present in buildings constructed before 1978. Although banned from use in the manufacture of paints at that time, existing supplies of lead-based paint continued to be used for some years after the ban until the stocks were used up and therefore lead-based paint could be present in buildings constructed after 1978. Lead is toxic to humans, particularly young children, and can cause a range of human health effects, depending on the level of exposure. When adhered to the surface of the material on which it is painted, lead-based paint poses little health risk. Where the paint is delaminated or chipping, the paint can cause a potential threat to the health of young children or other building occupants who may ingest the paint. Lead dust could also present public health risks during demolition of a structure with lead-based paint. Lead-based paint that has separated from a structure may also contaminate nearby soil. Lead-based paint is defined by 17 CCR Section 35033 as paint containing lead at a concentration of 5,000 mg/kg (0.5 percent) or greater. Separated paint would be considered a hazardous waste if the lead concentration exceeds the total threshold limit of 1,000 mg/kg, or if the soluble lead concentration exceeds the soluble threshold limit concentration of 5 milligrams per liter (mg/L) or the federal toxicity regulatory level of 5 mg/L (22 CCR Section 66261.24).

#### **EXISTING HAZARDOUS BUILDING MATERIALS**

As noted in the Phase I ESA for the project site, the existing buildings were constructed between 1945 and 1950. Based on their age, asbestos-containing materials and lead-based paint may have been used in their construction. A limited survey was conducted in 2013 to evaluate the potential presence of asbestos-

containing materials and lead-based paint materials in the interiors of the six site buildings that would be demolished under the proposed project, including the Marian Building, Sienna Building, Stone Cottage, Cortona Cottage, Seraphine Residence, and Regional Office (RGA, 2013). The survey was limited to a screening level survey and did not include destructive sampling for non-accessible materials. In all, the survey identified a total of 125 suspect asbestos-containing materials in the six buildings, and 47 tested positive for asbestos content. An additional 36 materials were inaccessible for sampling and are assumed to be asbestos containing. The confirmed asbestos-containing materials include the textured joint compound used on the drywall and the texturing material; the backing the sheet flooring and some of the sheet flooring; some of the floor tiles and mastic; wainscot mastic; transite board, paneling, and floor paneling; duct wrap in the furnace area and on the ducts of the heating, ventilation, and air conditioning system; and insulation on many of the thermal system components such as the boiler flue and tank, pipes, and fittings. Assumed asbestos containing materials include tiles, grout, and mastic used in the restrooms, shower rooms, laundry room, kitchens, some offices, and a community room; tiles used in some of the living areas and an entry way; ceiling tiles as well as grout and mortar in the main chapel; mastic associated with the wainscot; vault and fire door insulation in the stairwells; and transite paneling.

Three of five paint samples tested positive for lead and the detected concentrations ranged from 860 mg/kg to 46,000 mg/kg. The lead concentration exceeded the lead-based paint criteria of 5,000 mg/kg in only one sample from the upper living space of the Cortona Building. The other two samples with detected lead levels were from Room 118 of the Sienna Building and the western wing southern bathroom of the Seraphine building. Because sampling showed the presence of these lead-containing paints on the building interiors, the survey report stated that all painted interior surfaces should be assumed to contain lead.

The survey states that investigations of the building exteriors and roofs need to be conducted prior to demolition of the buildings; and additional investigation of the interiors is also needed. In addition, fluorescent light tubes containing mercury vapors, fluorescent light ballasts containing PCBs or DEHP, and PCB containing electrical equipment may be present in the buildings that would be demolished, but the presence of these materials was not evaluated as part of the limited survey.

#### **NATURALLY-OCCURRING ASBESTOS**

Naturally occurring asbestos can be released from ultramafic rocks such as *mélange* when the rock is broken or crushed during grading and other excavation associated with construction of development projects. As discussed in Section 4.4, Geology and Soils, the project site is located on a bluff immediately underlain by the Santa Clara Formation, which is in turn underlain by Franciscan *mélange*.<sup>2</sup> The geologic contact between these rock units roughly parallels the western property boundary, and slightly extends into the setback area of Lots 15 and 16. Regionally, the *mélange* often contains naturally occurring

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<sup>2</sup> *Mélange* is a mixture of rock materials of differing sizes and types typically contained within a sheared matrix.

asbestos which can be harmful if inhaled. However, visual observations of the mélange as part of the geotechnical assessment for the proposed project showed that within the project site, the mélange consists of greywacke sandstone with some cementation, and no serpentine was observed. This type of sedimentary rock is not known to contain naturally occurring asbestos.

### **HOUSEHOLD HAZARDOUS WASTE MANAGEMENT**

Household hazardous waste is a hazardous waste that is generated incidental to owning or maintaining a place of residence. Examples of common household hazardous wastes include antifreeze, household batteries, compressed gas cylinders, television/computer monitors, consumer electronic devices, home-generated sharps, oil-based paints, latex paints, motor oil, used oil filters, rodent poison, gasoline, fluorescent lamps containing mercury, partially used aerosol containers, and weed killers. In Los Gatos, household hazardous wastes are managed under the Santa Clara Countywide Household Hazardous Waste Program and these materials may be disposed of at one of the Santa Clara County household hazardous waste facilities year-round by making an appointment. The County of Santa Clara Household Hazardous Waste program also encourages residents to use safer and less toxic alternatives to common hazardous products, and to purchase lesser volumes of hazardous products.

### **WILDLAND FIRE HAZARDS**

According to the Los Gatos General Plan, the project site is located in a Very High Wildland Fire Severity Zone, as is much of the southern portion of the Town of Los Gatos. The Town's Emergency Operations Plan identifies wildfire risk as a seasonal risk and notes that because of the types of vegetation present in Los Gatos and typically high moisture content, the wildfire risk is usually small. However, during drought years there are occasions when the winds blowing from the east dry out the hillsides and increase the wildfire potential.

#### **4.10.2 REGULATORY AND PLANNING FRAMEWORK**

Hazardous materials and hazardous wastes are subject to extensive federal, state, and local regulations, with the major objective of protecting public health and the environment. In general, these regulations provide definitions of hazardous materials; establish reporting requirements; set guidelines for handling, storage, transport, remediation, and disposal of hazardous wastes; and require health and safety provisions for workers and the public. The major federal, state, and regional agencies enforcing these regulations include the USEPA, California Department of Toxic Substances Control (DTSC), the State Water Resources Control Board (SWRCB) and San Francisco Bay Regional Water Quality Control Board (RWQCB), and the Bay Area Air Quality Management District (BAAQMD). The Santa Clara County Department of Environmental Health is the oversight agency for the investigation and cleanup of petroleum releases from underground storage tanks and also implements the Voluntary Cleanup Program for the cleanup of properties contaminated by hazardous materials. Solvent and toxic cases can also be enforced by the RWQCB, DTSC, or USEPA.

### **HAZARDOUS MATERIALS USE AND CLOSURE OF PERMITTED FACILITIES**

Hazardous materials management requirements are specified in Chapter 13, Article II of the Los Gatos Town Code. As the Participating Agency<sup>3</sup> for the Town of Los Gatos, the Santa Clara County Fire Department requires businesses that handle hazardous materials over the threshold quantities of 500 pounds for solids, 55 gallons for liquids, and 200 cubic feet for compressed gases to submit a Hazardous Materials Inventory Statement and Hazardous Materials Business Plan detailing hazardous material inventories, site layouts, training and monitoring procedures, and emergency response plans. As discussed above, the existing convent has filed a Hazardous Materials Inventory Statement and Hazardous Materials Business Plan with the Santa Clara County Fire Department.

When a permitted facility stops operations, the Santa Clara County Fire Department requires a closure permit. In accordance with this permit, the facility operator must prepare a closure plan describing activities to be conducted to demonstrate that hazardous materials that were stored, dispensed, handled, or used at the facility have been transported, disposed of, or reused in a manner that minimizes any threat to public health and safety. The plan must include a description of the size and type of facility to be closed (including a site plan); the chemicals used at the facility; the procedures to be used for decontamination of the facility and equipment (if required) and the proposed method for disposal of all hazardous wastes generated from cleaning operations; planned disposition of hazardous materials and wastes from the facility in accordance with all state and federal laws; and a description of the planned sampling program to demonstrate that the facility has been completely decontaminated. Upon completion of closure, the operator must submit a post-closure report documenting compliance with the closure plan, confirming appropriate disposition of all hazardous materials, and documentation of all sampling conducted, including analytical results.

### **CALIFORNIA HUMAN HEALTH SCREENING LEVELS**

The California Environmental Protection Agency has published guidelines for the evaluation of chemicals commonly found in soil or groundwater where a release of hazardous materials has occurred (CalEPA, 2005). This guidance establishes CHHSLs that are conservative estimates of safe levels of a chemical that a person could be exposed to in soil. If the concentration of a chemical in the soil is below the CHHSL, then it can be assumed that the chemical would not pose a health risk to a person. However, these screening levels are based on conservative exposure assumptions, and it is possible that a more detailed risk assessment using project-specific exposure assumptions would identify a higher concentration that would be safe for the specific site based on site-specific conditions and use.

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<sup>3</sup> A Participating Agency is an agency that has a written agreement with the Certified Unified Program Agency (CUPA) to implement or enforce one or more of the unified program elements of the CUPA. For the Town of Los Gatos, the CUPA is the Santa Clara County of Environmental Health.

### **WASTE CLASSIFICATION CRITERIA**

In accordance with 22 CCR Section 66261.20, et seq., excavated soil would be classified as a hazardous waste if it exhibits the characteristics of ignitability, corrosivity, reactivity, or toxicity. A waste is considered toxic in accordance with 22 CCR Section 66261.24 if it contains certain substances at concentrations greater than the thresholds identified below:

- Total concentrations of certain substances at concentrations greater than the State total threshold limit concentration (TTLC);
- Soluble concentrations greater than the State soluble threshold limit concentration (STLC);
- Soluble concentrations of certain substances greater than federal toxicity regulatory levels using a test method called the toxicity characteristic leaching procedure (TCLP); or
- Specified carcinogenic substances at a single or combined concentration of 0.001 percent.

A waste would be considered hazardous by State and federal regulations if the soluble concentration exceeds the TCLP level as determined by the TCLP method. Because the TCLP involves a 20-to-1 dilution of the sample, the total concentration of a substance in the soil would need to exceed 20 times the regulatory level for the soluble concentration to exceed the regulatory level in the extract. A waste would also be considered hazardous under State regulations if the soluble concentration of a substance exceeds the STLC determined by a waste extraction test, which involves a 10-to-1 dilution of the sample. Because of this, the total concentration of a substance would need to exceed 10 times the STLC for the soluble concentration to possibly exceed the STLC in the extract. A waste may also be classified as toxic if testing indicates toxicity greater than specified criteria.

### **VOLUNTARY CLEANUP PROGRAM**

The Santa Clara County Department of Environmental Health, as the CUPA, implements the Voluntary Cleanup Program for the cleanup of properties contaminated by hazardous materials. Under the California Health and Safety Code Sections 101480 through 101490, the responsible party at a contaminated site may request the oversight of the Environmental Health Department to review Phase I and II investigations and provide oversight for the establishment of additional site assessment requirements, review of sampling data review, establishment of site cleanup levels, and evaluation of the need for site remediation. To obtain these oversight services, the responsible party must enter into a Remedial Action Agreement with the Santa Clara County Department of Environmental Health.

### **ABATEMENT OF ASBESTOS IN BUILDINGS AND STRUCTURES**

Section 19827.5 of the California Health and Safety Code, adopted January 1, 1991, requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with notification requirements under applicable federal regulations regarding hazardous air pollutants in the Bay Area, including asbestos. The BAAQMD is vested by the California legislature with authority to

regulate airborne pollutants, including asbestos, through both inspection and law enforcement, and is to be notified 10 days in advance of any proposed demolition or abatement work. The BAAQMD regulates the demolition of buildings and structures containing asbestos under BAAQMD Regulation 11, Rule 2 (Asbestos Demolition, Renovation and Manufacturing) which provides measures to control emissions of asbestos to the atmosphere and includes wetting methods, removal in units, removal by chute or container, containment requirements, and disposal requirements.

Notification includes the names and addresses of operations and persons responsible; description and location of the structure to be demolished/alterd, including size, age, and prior use; approximate amount of friable asbestos; scheduled starting and completion dates of demolition or abatement; nature of planned work and methods to be employed; procedures to be employed to meet BAAQMD requirements; and the name and location of the waste disposal site to be used. The BAAQMD randomly inspects asbestos removal operations. In addition, the BAAQMD will inspect any removal operation that is the subject of a complaint.

Contractors who conduct asbestos-related work activities (including abatement) in buildings and structures must follow state regulations contained in 8 CCR Section 1529 and 8 CCR Sections 341.6 through 341.14 where the work would involve 100 square feet or more of asbestos containing material. Specifically, under 8 CCR Section 341.6, the California Division of Occupational Safety and Health (Cal/OSHA) must be notified of asbestos-related work activities to be carried out. Contractors must be licensed as an Asbestos Qualified Contractor by the Contractors Licensing Board of the State of California, and registered as such with Cal/OSHA. In addition, a one-time report of the use of carcinogens must be made to Cal/OSHA under 8 CCR Chapter 4, Section 5203. The owner of the property where abatement is to occur must have a Hazardous Waste Generator Number assigned by and registered with the DTSC. The contractor and hauler of the material are required to file a Hazardous Waste Manifest which details the hauling of the material from the site and its disposal. Title 8 CCR Section 1529(b) defines asbestos-containing material as any material that contains more than one percent asbestos.

#### **LEAD IN CONSTRUCTION STANDARD**

Cal/OSHA's Lead in Construction Standard (8 CCR Section 1532.1) requires development and implementation of a lead compliance plan when lead-based paint would be disturbed during construction. The plan must describe activities that could emit lead, methods that will be used to comply with the standard, safe work practices, and a plan to protect workers from exposure to lead during construction activities. Cal/OSHA would require 24-hour notification if more than 100 square feet of lead-based paint would be disturbed.

#### **TRANSPORTATION OF HAZARDOUS MATERIALS**

The California Highway Patrol and the California Department of Transportation (Caltrans) are the primary state agencies with responsibility for enforcing federal and state regulations pertaining to transport of hazardous materials within California. The U.S. Department of Transportation regulates the

transport of chemicals and hazardous materials by truck between states. These agencies regulate container types and packaging requirements as well as licensing and training for truck operations, chemical handling and hazardous waste haulers.

### NATURALLY OCCURRING ASBESTOS

Asbestos-containing material is defined as any material that has an asbestos content of 0.25 percent or greater (Title 17 CCR Section 93105(h)(9)). In 2001, the California Air Resources Board (CARB) adopted the Asbestos Airborne Toxic Control Measure (Asbestos ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations in areas of serpentine and other ultramafic rocks (Title 17 CCR Section 93105), which became effective in July 2002. The ATCM protects public health and the environment by requiring the use of best available dust mitigation measures to prevent the offsite migration of asbestos-containing dust from road construction and maintenance activities, construction and grading operations, and quarrying and surface mining operations in areas of ultramafic rock, serpentine, or asbestos. The BAAQMD implements the regulation. The Asbestos ATCM does not apply to the proposed project because the Franciscan Melange that slightly encroaches onto the setbacks of Lots 15 and 16 would not be disturbed during construction and the rock unit extending onto the project site consists of cemented sandstone that would not contain naturally-occurring asbestos.

### 4.10.3 CONFORMANCE WITH LOCAL PLANS AND POLICIES

#### LOS GATOS GENERAL PLAN

Project consistency with General Plan policies relating to hazards and hazardous materials would be as follows:

#### General Plan Policies

##### *Safety Element*

*SAF-2.1: New development located in or adjacent to fire hazard areas shall be designed and sited to minimize hazards to life and property. Utilize fire preventive site design, access, fire-safe landscaping, and building materials, and incorporate fire suppression techniques.*

#### Project Consistency Analysis

As discussed in Impact 4.10-4, the proposed plans for development of each lot would be reviewed by the Town during the Architecture and Site review process to ensure that the homes are constructed on slopes of less than 30 percent in areas that do not have dense vegetation, consistent with the Hillside Development Standards and Guidelines (HDSG) and elements of Policy SAF-2.1. This is feasible because there is room on each lot to construct the home on portions of the project site that are currently developed with buildings or garden space and do not have dense vegetation.

During Architecture and Site review process for each lot, the proposed landscaping plan would also be reviewed by the Town's Landscape Consultant and the Santa Clara County Fire Department for consistency with HDSG measures related to use of appropriate plants and maintenance of an adequate defensible space.

<b>General Plan Policies</b>	<b>Project Consistency Analysis</b>
<i>SAF-2.3: During the development review process, carefully consider the adequacy of water storage for fire protection.</i>	As discussed in Impact 4.10-4 and Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-1, water lines and hydrants would be constructed to provide an adequate water supply for firefighting. No on-site storage of water is required.
<i>SAF-2.4: Provide secondary emergency access that will not increase traffic for homes in areas identified as Very High Fire Hazard Areas on the Town's Wildland Fire Severity Zone Map.</i>	As discussed in Impact 4.10-4, as a condition of project approval, the Fire Department would require that adequate access roads are installed and serviceable prior to any construction. This would ensure that there would be adequate emergency access and water supply for firefighting during construction. Further, once the roadways are constructed at the project site, each of the lots would have immediate access to adjacent public streets, which would provide adequate emergency access for firefighting once the lots are developed.
<i>SAF-3.1: Minimize exposure to wildland and urban fire hazards through rapid emergency response; proactive code enforcement; public education programs; use of modern fire prevention measures; quick, safe access for emergency equipment and evacuation; and emergency management preparation.</i>	The project is surrounded by existing development and the fire protection services are already provided to the project area. Emergency access is available via the College Avenue and Reservoir Road routes.
<i>SAF-3.2: Encourage neighborhood fire emergency planning for isolated areas.</i>	Fire protection services are currently provided to on-site facilities and this site is not considered to be located in an isolated area. This site is completely surrounded by existing residential uses. Therefore, this policy does not apply to this project.
<i>SAF-3.3: Ensure emergency fire and medical services are available and ensure adequate water supply for fire emergencies.</i>	For firefighting and emergency medical services, the development would be served by the Santa Clara County Fire Department. As discussed in Impact 4.10-4 and Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-1, water lines and hydrants would be constructed to provide an adequate water supply for fire emergencies.
<i>SAF-3.4: Restrict development in areas with inadequate water flow.</i>	As discussed in Impact 4.10-4 and Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-1, water lines and hydrants would be constructed to provide an adequate water flow for firefighting and other uses.
<i>SAF-3.5: Control excessive buildup of flammable vegetative material.</i>	As discussed in Impact 4.10-4, during Architecture and Site review for each lot, the proposed landscaping plan would be reviewed by the Town's Landscape Consultant and the Santa Clara County Fire Department for consistency with HDSG measures related to use of appropriate plants and maintenance of an adequate defensible space.
<i>SAF-5.1: Work with public agencies and private organizations to prevent the introduction of hazardous materials into the water and air supply.</i>	The only hazardous materials used under the proposed project would be for household purposes, and residential land uses could result in the generation of household hazardous wastes. Mitigation Measure 4.10-1 requires a

<b>General Plan Policies</b>	<b>Project Consistency Analysis</b>
<i>SAF 5.2: Phase I site assessments shall be required for all sites where property is suspected of containing any toxins.</i>	<p>Buyer Education Program for Household Hazardous Waste to encourage proper disposal of these wastes so that they are not introduced into the water supply or atmosphere.</p> <p>The Town required the project applicant to complete a Phase I Environmental Site Assessment (ESA) for the project site. The Phase I ESA is included in Appendix J. The results of the Phase I ESA are discussed in the environmental setting section, above. As discussed in Impact 4.10-3, the proposed project site was used as orchards prior to the 1940s and several chemical constituents have been identified at concentrations above human health screening levels or hazardous waste classification criteria. Mitigation Measure 4.10-3 requires the project applicant to enroll in the Santa Clara County Department of Environmental Health Department Voluntary Cleanup Program to ensure that future site occupants would not be exposed to unacceptable levels of hazardous materials in the soil. This measure also requires implementation of actions in accordance with a Soil Management Plan, Site Health and Safety Plan, and Contingency Plan to ensure that the construction workers and public are not exposed to unacceptable levels of hazardous materials in soil during construction.</p>
<i>SAF 5.3: Support Santa Clara County Fire Department in monitoring the storage of hazardous materials.</i>	<p>The project would not include any land uses that would involve the storage of hazardous materials subject to regulation by the Santa Clara County Fire Department. The project would not impede the Town from complying with policy SAF 5.3.</p>

**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES (HDSG)**

The Town’s Hillside Development Standards and Guidelines contain the following site planning standards and guidelines addressing fire hazards:

<b>Hillside Development Standards and Guidelines</b>	<b>Project Consistency Analysis</b>
<p><i>III. Site Planning</i></p> <p><i>D. Safety</i></p> <p><i>Fire Hazards – Standard:</i></p> <ol style="list-style-type: none"> <li><i>Building locations shall be selected and structured designed to minimize exposure to wildfires.</i></li> </ol> <p><i>Fire Hazards – Guideline:</i></p> <ol style="list-style-type: none"> <li><i>Development should avoid areas subject to severe fire danger. In order to achieve this, development should be set back from the crest of a hill not be located on or adjacent to slopes greater than 30%, and not be located within densely wooded areas. If this is not possible, measures designed to assure</i></li> </ol>	<p>As discussed in Impact 4.10-4, the proposed plans for development of each lot would be reviewed by the Town during the A&amp;S review process to ensure that the homes are constructed on slopes of less than 30% in areas that do not have dense vegetation. This is feasible because there is room on each lot to construct the home on portions of the project site that are currently developed with buildings or garden space and do not have dense vegetation.</p>

**Hillside Development Standards and Guidelines****Project Consistency Analysis**

*the highest degree of fire prevention and fast effective means of evacuation and fire suppression shall be provided.*

**Fire Hazards – Standard:**

2. *A landscape plan shall be provided and will be reviewed by the Town's Landscape Consultant with input from the Fire Department. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property, it shall be eliminated in an environmentally sensitive manner.*

**Fire Hazards – Guidelines:**

2. *The fuel load within a defensible space should be minimized by use of selective pruning, thinning and clearing as follows: removal of flammable species and debris, removal of dead, dying or hazardous trees, mow dead grasses, removal of dead wood from trees and shrubs, and thin tree crowns (maximum of 25%).*
3. *Discontinuous fuel sources should be created and maintained within a defensible space through use of the following techniques: thin vegetation to form discontinuous groupings of trees or shrubs, limb trees up from the ground, and establish a separation between the lowest branches of a tree and any understory shrubs.*
4. *Landscaping within a defensible space should be designed with fire safety in mind. Landscaping in defensible space should be: fire resistant and drought tolerant, predominantly low-growing shrubs and groundcovers (limit shrubs to 30% coverage), limited near foundations (height and density).*

During A&S review for each lot, the proposed landscaping plan would be reviewed by the Town's Landscape Consultant and the Santa Clara County Fire Department for consistency with HDSG related to use of appropriate plants, maintenance of an adequate defensible space, and guidelines to prevent fire hazards.

**Fire Hazards – Standards:**

3. *Development shall have adequate fire access.*
4. *A dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department, shall be provided for all properties.*
5. *Water for fire suppression shall be available and labeled before any framing may begin.*
6. *Above ground water tanks shall not be located in required setback areas.*

As a condition of project approval, the Santa Clara County Fire Department would require that adequate access roads for fire protection are installed and serviceable prior to any construction, although an alternative may be necessary during installation of the planned roads and fire-protection water supply.

As a condition of project approval, the Santa Clara County Fire Department would require that an adequate water supply for fire protection is installed and serviceable prior to any construction, although an alternative may be necessary during installation of the planned roads and fire-protection water supply.

Above ground water tanks would not be required for the project and therefore, would not be located in the required setback areas.

**Hillside Development Standards and Guidelines****Project Consistency Analysis***Fire Hazards – Guideline:*

5. Above ground tanks should not be located in areas of high visibility unless it can be demonstrated to the satisfaction of the decision making body that no other feasible locations are available.

This guideline would not apply to the proposed project because the proposed development would be served by the Santa Clara County Fire Department, and no additional water tank would be required for fire protection.

**4.10.4 POTENTIAL IMPACTS AND MITIGATION MEASURES****SIGNIFICANCE CRITERIA**

The following thresholds of significance are derived from Appendix G to the 2012 *California Environmental Quality Act* (CEQA) Guidelines. For purposes of this EIR, implementation of the proposed project may have a significant adverse impact if it would:

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

Based on project characteristics, no impacts are anticipated with respect to the following topics:

- *Hazardous Emissions and use of Hazardous Substances within ¼-mile of a School* Hazardous air emissions are toxic air contaminants identified by the CARB and the BAAQMD. Extremely hazardous materials are defined by the State of California in Section 25532 (2)(g) of the Health and Safety Code. There are no schools located within one-fourth mile of the site, although the project is located within approximately one-third mile of Los Gatos High School. Only common

hazardous materials such as paints, solvents, cements, adhesives, and petroleum products (such as asphalt, oil, and fuel) would be used during construction, none of which are considered extremely hazardous materials. The only toxic air contaminant that would be emitted during construction is diesel particulate matter (DPM) (see Section 4.8, Air Quality). The residential uses proposed under the project would not use extremely hazardous materials nor emit toxic air contaminants once the project is constructed. Therefore, there is no impact related to hazardous emissions or handling of hazardous or acutely hazardous materials, substances or wastes within ¼-mile of a school.

- *Location within two miles of a Public Airport or Covered by a Public Airport Land Use Plan or within the vicinity of a Private Air Strip.* The nearest airports or air strips to the project site are the Norman Y. Mineta San Jose International Airport and Reid Hillview Airport, located more than 10 miles to the northeast. Therefore, there is no impact associated with safety hazards due to location of the project within 2 miles of a public airport or in the vicinity of a private airstrip. The project site is not covered by a public airport land use plan.
- *Impairment of the implementation of or physically interference with an adopted emergency response plan or emergency evacuation plan.* As discussed in Section 4.6, Traffic and Circulation, Impact 4.6-1, during all phases of project demolition and construction, the Town will require, as a condition of project approval, that a Traffic and Safety Control Plan be prepared by the project applicant. This Plan would include flagpersons for traffic control/safety and prior notification with all emergency services specifying the dates and house of operation and one-way routing plans. After proposed roads are completed, each lot would have immediate access to a public street, and would therefore have access for emergency services. Further, the project would not change the street network or include construction within a street such that an existing emergency evacuation or response plan could be impaired or such that there could be a physical interference with an adopted emergency response or evacuation plan. Therefore, the project would have no impact related to impairment or physical interference with an emergency response plan or emergency evacuation plan.

**Impact 4.10-1: The proposed project could result in a significant hazard to the public or the environment through the routine use and disposal of household hazardous wastes. (Less than Significant With Mitigation)**

Development of a new residential subdivision would result in an increase in the generation of household hazardous wastes that are typical of any residential area. Common household hazardous wastes such as paint, pesticides, used oil and antifreeze, could result in direct or indirect effects on human health and the environment if not appropriately handled and disposed of. In addition to water quality impacts from stormwater runoff, other potential impacts such as direct human contact with hazardous materials could result from improper use or disposal of hazardous household chemicals. As described in the Setting section, the household hazardous wastes may be disposed of by making an appointment with the County of Santa Clara Household Hazardous Waste program.

Although Los Gatos residents can legally dispose of household hazardous wastes under the County of Santa Clara Household Hazardous Waste program, the project's impacts related to the generation and disposal of hazardous waste would be potentially significant because not all residents are knowledgeable in the identification of hazardous wastes and appropriate disposal requirements. This impact would be reduced to less than significant with implementation of Mitigation Measure 4.10-1, Buyer Education Program for Household Hazardous Waste, which requires implementation of a buyer education program to educate residents about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal. Impacts related to the routine transport of household hazardous materials would be less than significant because the materials are commercially packaged for retail sale, and transport of these materials is well regulated by state and federal regulations.

***Mitigation Measure 4.10-1, Implement Buyer Education Program for Household Hazardous Waste:***

*The project sponsor, working with the Town of Los Gatos and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, developing materials to educate buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal. At a minimum, the educational materials shall include a list of example household hazardous wastes, discuss the environmental impacts of improper disposal, explain how to make an appointment for disposal, and list safer and less toxic alternatives to hazardous products commonly used. The educational materials shall be provided to the buyer at the time of purchase.*

**Impact Significance After Mitigation:** Less than significant because education of home buyers would help reduce the use of hazardous materials in the home, and would promote legal and environmentally friendly disposal of household hazardous wastes.

**Impact 4.10-2: The project could create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials to the environment during building demolition. (Less Than Significant With Mitigation)**

**Exposure to Hazardous Building Materials.** As discussed in the Setting section above, the existing buildings were constructed between 1945 and 1950. A limited survey of the six buildings that would be demolished identified asbestos-containing materials in all six buildings that would be demolished under the proposed project. Further, based on the results, lead-based paint may have been used in their construction. In addition, fluorescent light tubes containing mercury vapors, fluorescent light ballasts containing PCBs or DEHP, and PCB-containing electrical equipment may be present in the buildings that would be demolished.

Disturbance of friable or non-friable asbestos during demolition could result in a release of airborne asbestos fibers unless proper asbestos abatement precautions are taken. Such a release could expose the construction workers and adjacent residents to airborne asbestos fibers. Similarly, lead-containing paint

that has delaminated or chipped from the surfaces of the building materials could result in a release of airborne lead particles unless proper lead abatement procedures are followed. However, the demolition would need to be conducted in accordance with the requirements of the legally-required BAAQMD and Cal/OSHA regulations regarding abatement of asbestos-containing materials and the Cal/OSHA Lead in Construction Standard for the abatement of lead-based paint, all of which are described in Section 4.10.2, Regulatory and Planning Framework.

If PCBs are present in the building to be demolished, leakage could expose workers to unacceptable levels of PCBs (greater than 5 ppm, based on Title 22, *California Code of Regulations*). Removal of fluorescent light tubes and fixtures could result in exposure to mercury vapors if the lights are broken or exposure to DEHP (if present in the light ballasts).

Potential exposure to hazardous building materials during building demolition would be potentially significant, but mitigated to a less-than-significant level with implementation of Mitigation Measure 4.10-2, Hazardous Building Materials Surveys and Abatement, which requires the project applicant to conduct surveys for hazardous building materials prior to demolition, and if warranted, to implement appropriate abatement and disposal procedures in compliance with applicable regulations. In addition, the project applicant will be required to obtain clearance for asbestos removal from BAAQMD prior to issuance of a demolition permit. To obtain this clearance, BAAQMD (and as required by existing federal and State law) would require specific testing for confirmation and, if present, proper handling of materials prior to and during demolition that would avoid/minimize worker exposure during demolition. These requirements would require proper disposal of hazardous materials after demolition as well.

***Mitigation Measure 4.10-2, Hazardous Building Materials Surveys and Abatement:*** *Prior to demolition of each building, the project applicant shall ensure that a hazardous building materials survey is completed by a Registered Environmental Assessor or a registered engineer for the building exteriors, roof, and any interior areas that were inaccessible during the previous limited survey. Any friable asbestos-containing materials or lead-containing materials identified by the previous survey or any surveys conducted in accordance with this mitigation measure shall be abated using practices such as containment and/or removal prior to demolition, and the abatement shall be implemented in accordance with applicable laws. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the BAAQMD, and 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.*

*Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measure 4.10-2, which reduces impacts related to exposure to hazardous building materials by requiring surveys to identify existing hazardous building materials and proper abatement of any materials identified prior to demolition of the existing structures.

**Impact 4.10-3: The project could create a hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment during soil excavation and subsequent site use. (Less Than Significant With Mitigation)**

As discussed in the Setting section above, the Phase I ESA for the proposed project site reports that the property was historically used for orchards prior to development of the existing convent sometime between 1945 and 1950. Based on historic use of the property for orchards, pesticides were likely applied to the soil, and pesticides were also applied for weed control adjacent to the existing buildings. As discussed in the Setting, arsenic, lead, chlordane, and dieldrin have all been identified in the surface soil at concentrations above the CHHSL in at least one sample and therefore construction workers, and future site occupants could be exposed to the contaminated soil. In addition, surface soil from the vicinity of the Seraphine Building, Cortona Building, Greenhouse, Stone House, Marian Building, Pump House, Terraced Garden Area, and Garden/Landscape Areas contained DDT above hazardous waste classification criteria, and could possibly contain lead above hazardous waste classification criteria. Based on this, some of the soil may require disposal as a hazardous waste once excavated. Therefore, impacts related to exposure to hazardous materials in the soil are considered significant.

However, this impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.10-3, Implement Corrective Action. This mitigation measure ensures that future site occupants would not be exposed to unacceptable levels of hazardous materials in the soil by requiring the project applicant to enroll in the Voluntary Cleanup Program implemented by the Santa Clara County Department of Environmental Health and to conduct any necessary cleanup of the site-soils under regulatory oversight. Issuance of a closure letter at the end of any needed cleanup actions as required by this mitigation measure would document that the cleanup has been successfully implemented. This measure also requires implementation of a soil management plan specifying safe methods for on-site management of soil and legal disposal of any soil disposed of off-site; implementation of a site safety plan specifying construction worker health and safety requirements; and implementation of a contingency plan to address any contamination that may have previously gone unidentified. Implementation of actions in accordance with these plans would ensure that the construction workers and public are not exposed to unacceptable levels of hazardous materials in the soil during construction, and would ensure legal disposal of the excavated soil.

***Mitigation Measure 4.10-3, Corrective Action:*** *The following measures shall be required to reduce public health risks related to removal and disposal of hazardous materials to a less-than-significant level. The oversight agency review may amend these measures as applicable.*

- a. *Prior to any soil disturbance activities or building demolition at the site, the project applicant shall participate in the Voluntary Cleanup Program (VCP) administered by the Santa Clara County Department of Environmental Health for technical oversight of any remedial action to address contaminants in the soil, unless referred to an alternate agency. Oversight includes all aspects of the site investigation and remedial action, determination of the adequacy of the site investigation and remediation activities at the site, and determination of the need for confirmation soil sampling once contaminated soil is excavated.*
- b. *Prior to sale of individual lots, the applicant shall submit a “no further action” letter from the oversight agency or comparable closure document that demonstrates the site has been released as clean or a mitigation plan has been approved and implemented.*
- c. *The project applicant shall require the construction contractor(s) to implement a Soil Management Plan (SMP) prepared by the project applicant’s environmental consultant and approved by the overseeing regulatory agency. The SMP shall include a plan for disposal of excess soil produced during construction activities, including on-site management of excavated soil, the disposal methods for soil, potential disposal sites, and requirements for written documentation that the disposal site will accept the excess soil. If appropriate, excess soil may be disposed of on-site, under foundations or in other locations in accordance with applicable hazardous waste classifications and disposal regulations, if approved by the regulatory oversight agency. Prior to or during construction, excess soil from construction activities shall be sampled to determine the appropriate disposal requirements in accordance with applicable hazardous waste classification and disposal regulations.*
- d. *The project applicant shall require the construction contractor to prepare and implement a site safety plan identifying the chemicals present, potential health and safety hazards, monitoring to be performed during site activities, soils-handling methods required to minimize the potential for exposure to harmful levels of the chemicals identified in the soil, appropriate personnel protective equipment, and emergency response procedures.*
- e. *The project applicant shall require the construction contractor(s) to have a contingency plan for sampling and analysis of potential hazardous materials and for coordination with the appropriate regulatory agencies, in the event that previously unidentified hazardous materials are encountered during construction. If any hazardous materials are identified, the contractor(s) shall be required to modify their health and safety plan to include the new data, conduct sampling to assess the chemicals present, and identify appropriate disposal methods. Evidence of potential contamination includes soil discoloration, suspicious odors, the presence of USTs, or the presence of buried building materials.*

**Impact Significance After Mitigation:** Less than significant with implementation of Mitigation Measures 4.10-3 because enrolling in the voluntary cleanup program to ensure cleanup of the site soils under regulatory guidance would ensure that future site occupants are not exposed to unacceptable levels of hazardous materials in the soil. Implementation of actions in accordance with a soil management plan, site health and safety plan, and contingency plan, would ensure that appropriate actions are taken to ensure that construction workers and the public are not exposed to unacceptable levels of hazardous materials in the soil during construction.

**Impact 4.10-4: The project would not to 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. (Less than Significant)**

The project site is not in undisturbed wildlands or adjacent to wildlands. Nevertheless, according to the Los Gatos 2020 General Plan's mapping of Wildland Fire Severity Zone, the project site is located in an area designated as Very High Fire Hazard as discussed in the Setting. General Plan Policy SAF-2.1 encourages design and siting of new development in fire hazard areas to minimize hazards to life and property, such as fire preventive site design, access, fire-safe landscaping and building materials, and incorporation of fire suppression techniques, and the project would have to comply with Policy SAF-2.1. In addition, the project would be required to comply with the standards contained in the Town's Hillside Development Standards and Guidelines (HDSG; January 2004) to minimize fire hazards. These standards are described above in Section 4.10.3, Conformance with Local Plans and Policies. Accordingly, the project applicant would be required to provide adequate emergency access and a dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department. The developers of individual lots would also be required to minimize exposure to wildfires by constructing future homes in areas with slopes of less than 30% and outside of densely wooded areas, and implementing a landscape plan to demonstrate use of appropriate plants and maintenance of a defensible space. Water for fire suppression would need to be available and labeled before any framing could begin.

The project is consistent with the requirements of the Town's Hillside Development Standards and Guidelines (HDSG) because, as a condition of project approval, the Fire Department would require that adequate access roads and water supply for fire protection are installed and serviceable prior to any combustible construction, although an alternative supply may be necessary during demolition and construction of roads and infrastructure. As indicated in Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-1, the Fire Department would require provision of water supply installations prior to the start of combustible construction to ensure that there would be adequate emergency water supply

In addition, required implementation of a Traffic and Safety Control Plan, which would include maintaining adequate emergency access during all phases of project demolition and construction, would ensure adequate emergency access for firefighting (see Section 4.6, Transportation and Traffic, Impact 4.6-4 for more discussion). With proposed completion of project roads prior to development of individual lots, adequate emergency access for firefighting would be provided during and after individual lots are developed.

To avoid areas subject to severe fire danger, each individual lot development would be required to construct within the LRDA which includes areas with slopes less than 30% that are not located within densely wooded areas to minimize exposure to wildfires. The landscaping plan for each lot would be required to specify the following, which is mandated by the HDSG:

- The fuel load within a defensible space is minimized by use of selective pruning, thinning and clearing. Appropriate methods to achieve this include removing flammable species and debris; removing dead, dying or hazardous trees; mowing dead grasses; removing dead wood from trees and shrubs; and thinning tree crowns (maximum of 25%).
- The defensible space includes only discontinuous fuel sources. Appropriate methods to achieve this include thinning vegetation to form discontinuous groupings of trees or shrubs; limbing trees up from the ground; and establishing a separation between the lowest branches of a tree and any understory shrubs.
- Landscaping within the defensible space is designed with fire safety in mind. Appropriate methods to achieve this include using fire-resistant and drought-tolerant, predominantly low-growing shrubs and groundcovers (limit shrubs to 30%) and limiting the use of vegetation near building foundations (height and density).

Although the specific home designs have not been prepared for each lot, the planned homes would need to incorporate the above design measures and compliance would be ensured by the Town during the Architecture and Site review process. In addition, since the project site is located in the Wildland Urban Interface Fire Area (WUIFA) as defined by the Town of Los Gatos, State officials, and Chapter 7A of the 2007 CBC, home designs on project lots will need to conform to WUIFA requirements (see Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-1 for more discussion). Compliance with the Town's existing requirements will ensure that impacts associated with wildfire hazards would be less than significant.

**Mitigation Measure 4.10-4:** *None required.*

#### REFERENCES – HAZARDS AND HAZARDOUS MATERIALS

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## 4.11 CULTURAL RESOURCES

This section evaluates the proposed project's potential impacts on cultural and paleontological resources. The information and analysis presented in this section are based on the findings of the cultural resources study completed by Holman & Associates in July 2013<sup>1</sup> and an historic resources evaluation that completed by Archives & Architecture, Inc. in March 2013. The historic evaluation is available for review included as **Appendix I** of this EIR. The historic evaluation's appendix, Department of Parks and Recreation 523 Series (Primary Records), is available for review at the Los Gatos Community Development Department (located at 110 East Main Street and available for review during counter hours from 8:00 a.m. to 1:00 p.m., Monday through Friday) and online through the Town's website.<sup>2</sup>

### 4.11.1 ENVIRONMENTAL SETTING

Cultural resources include places, objects, and settlements that reflect group or individual religious, archaeological, architectural, or paleontological activities. Such resources provide information on scientific progress, environmental adaptations, group ideology, or other human advancements. By statute, CEQA is concerned primarily with two classes of cultural resources: "historical resources," which are defined in Public Resources Code Section 21084.1 and *CEQA Guidelines* Section 15064.5 and "unique archaeological resources," which are defined in Public Resources Code Section 21083.2.

#### HISTORICAL RESOURCES

The 10.3-acre project site still contains features that relate and/or potentially relate to earlier use of the property when it was known as "Far Hills," the summer home of architect Henry Clay Smith. These features, located in the southern and western portions of the site, include remaining buildings, structures, and site elements that once contributed to a man-made landscape that was designed by Smith during the first half of the twentieth century. Henry Clay Smith was recognized as a distinguished architect in San Francisco early in the twentieth century within trade publications, and had a long and prolific career. His summer home in Los Gatos represented his personal passion for landscape design that grew out of the California Arts and Crafts Movement. The extant Stone House and some rock features in the southern and western portions of the site exist today as originally designed and constructed by Smith. Other features associated with Smith, such as the garage, now known as the Cortona Building, the tennis court, and the base of the water tank, also exist today, although these other features have lost their relevant historic context and setting. All of the features associated with the Smith design and occupancy are ancillary to Smith's main house which no longer exists. The Stone House and some of the related man-made setting

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<sup>1</sup> This report contains confidential cultural resources location information; report distribution is restricted to those with a need to know. Cultural resources are nonrenewable, and their scientific, cultural, and aesthetic values can be significantly impaired by disturbance. To deter vandalism, artifact hunting, and other activities that can damage cultural resources, the locations of cultural resources must be kept confidential. The legal authority to restrict cultural resources information is in California Government Code 6254.1.

<sup>2</sup> [www.losgatosca.gov/100prospectEIR](http://www.losgatosca.gov/100prospectEIR)

at the western portion of the property constitute a landscape that has some significance, but due to the loss of the original house and development of the property at mid-twentieth century and later, the site as a whole lacks integrity to the early estate (as defined in the California Code of Regulations Section 4852 (c)) and would not constitute a historical resource under CEQA.

The Sisters of the Holy Names of Jesus and Mary Convent and extended care facility is comprised of multiple buildings on a 10.3-acre parcel west of Prospect Avenue (see Figure 3-2 for locations of existing buildings). Almost all of the buildings on the proposed project site are over 50 years in age except for the Regional Office and Seraphine buildings, which were built in the late 1970s. The underlying building within Seraphine is older, but is no longer recognizable as an historic building.

The later developments by Sisters of the Holy Names are not significant in terms of criteria used to determine eligibility to historic registers. The design of the Marian and Siena buildings in the early 1950s is of architectural interest, as they are early examples of Modern Design during a period that saw a radical departure from the eclectic styles that had dominated much of twentieth century architecture during the first half of the century. Locally, there were a number of architects who promoted the use of this style in the buildings they designed, including Ralph Wyckoff, Edward Kress, Donnell Jaekle, and Ernest Kump. The firm that designed these two residences, Minton & Smith, was prominent in San Francisco, and the design of these buildings was a departure from the earlier more classically designed buildings tied with Henry Minton, the founder of the firm. The convent is minimalist in execution, which provides the foundation for innovative design during this period, but lacks the attention to detail that defines other buildings within this genre that today are considered important historic works of midcentury Modern. Changes to the original buildings, including the replacement of windows and installation of hot water piping on the exteriors has further reduced the integrity of the original design. The buildings as they exist today do not meet eligibility criteria for listing on the California Register of Historical Resources as they are not distinctive examples of Modern architecture during the post-World War II period.

The later Regional Office and Seraphine building are not 50 years in age or older. Under California Register criteria, to be considered historically significant, buildings should be at least 50 years in age. California Code of Regulations Section 4852(d)(2) addresses the issue of age as a “Special” consideration. A resource less than 50 years old may be considered for listing in the California Register if it can be demonstrated that sufficient time has passed to understand its historical significance. In order to understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individual associated with the resource. The buildings themselves, although architect-designed, are not distinctive architectural works, and lack important associations.

The property was evaluated for significance under local and state criteria for identification and designation of historical resources. While many of the buildings that exist today on the project site are over 50 years in age, the evaluation conducted by Archives & Architecture (2013) determined that none appear to be significant historical resources that would be eligible for listing on the California Register of Historical Resources. Neither the subject property nor any of the individual extant buildings within the

project site are listed in the California State Historic Property Data File. The project site and its buildings and structures are not listed on any county, state, or national register of historical resources, nor was the site identified and recorded in any prior surveys by the Town of Los Gatos.

### **ARCHAEOLOGICAL RESOURCES**

The cultural resources study included an archaeological literature review, which was conducted by Holman & Associates at the Northwest Information Center (NWIC). There are no identified historic and/or prehistoric sites located within the project site boundaries. Formal studies of the buildings and landscape located on the site were evaluated in detail in the historic resources evaluation (Appendix I) and summarized in the above Historical Resources discussion. There have not been any previous archaeological field inspections of the project area, nor have there been any within 500 feet of the project site.

Holman & Associates also conducted a visual inspection of the project site on November 13, 2012. The visual inspection was limited to those areas showing original ground surface and which were not covered by lawn: native soils, composed of a brown to grey clay containing scant amounts of rock, is visible along the southern, western and northern edges of the property. The ground surface was inspected for any evidence of Native American use and/or occupation of the property, and for any evidence of historic-era deposits in the form of trash dumps, filled in wells, sheet scatters, or privy pits. Typical prehistoric site indicators include darker than surrounding soils of a friable nature, concentrations of stone, bone or shellfish, and artifacts of these materials, as well as any evidence of fires (ash, charcoal, fire altered rock or earth) and evidence of use of rock outcrops for seed or acorn grinding stations, as quarries, or as repositories for rock art.

The property contains no evidence of bedrock which could have been utilized by Native Americans in the area. It is evident that beginning in the mid 19th century, there has been considerable alteration of the property for agricultural purposes and finally for the building of houses, associated landscaping and the 85,000 square feet of buildings of the Sisters of the Holy Names convent, including two dirt roads bordering the southern and western boundaries. At the center of the existing building complex it is evident that there was massive leveling of the landscape, including the construction of terraces which extend down slope to the north and which once contained vineyards. Very little in the way of historically undisturbed topsoils are to be seen inside the project borders.

### **PALEONTOLOGICAL RESOURCES**

Paleontological resources are the fossilized remains of plants and animals, including vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and fossils of microscopic plants and animals (microfossils). The age and abundance of fossils depend on the location, topographic setting, and particular geologic formation in which they are found. Fossil discoveries not only provide an historic record of past plant and animal life, but may assist geologists in dating rock formations. A review of records maintained by the University of California Museum of Paleontology in

Berkeley indicates that the closest paleontological resources recorded in Santa Clara County occur approximately 15.5 miles west of Los Gatos. These resources were discovered in geologic strata dating from the Late Pliocene and Miocene epochs of the Tertiary Period (65 to 1.8 million years ago).

The project site is underlain by the Santa Clara formation. This geological formation is more recent in geological time than the formation containing the paleontological resources recorded by the UCMP in the Los Gatos vicinity. Based on the characteristics of the geological formations containing recorded paleontological resources in the project region, the potential for uncovering paleontological resources on the project site is considered to be low.

#### **4.11.2 REGULATORY AND PLANNING FRAMEWORK**

The regulatory background outlined below offers an overview of federal, state, and local guidelines and regulations used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR).

##### **FEDERAL**

**National Historic Preservation Act, as Amended (1966).** The National Historic Preservation Act (NHPA) defines the Federal Government's role in historic preservation and establishes partnerships between states, local governments, Indian tribes, and private organizations and individuals. The NHPA authorizes the Secretary of the Interior to expand and maintain the National Register of Historic Places and establishes the Advisory Council on Historic Preservation (ACHP) as well as state and tribal historic preservation offices. It also requires federal agencies to consider the effects of their undertakings on historic resources and to give the ACHP a reasonable opportunity to comment on those undertakings. Because the proposed project does not require approval by or funding from any federal agencies, compliance with the NHPA is not required.

**National Register of Historic Places.** National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" (U.S. Department of the Interior, 1997). The National Register identifies four possible context types, of which at least one must be applicable at the national, state, or local level. Second, for a property to qualify under the National Register's Criteria for Evaluation, it must also retain "historic integrity of those features necessary to convey its significance." While a property's significance relates to its role within a specific historic context, its integrity refers to "a property's physical features and how they relate to its significance."

##### **STATE**

**California Register of Historical Resources.** The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: A Comparison*, outlines the differences

between the federal and state processes. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar to federal guidelines, with emphasis on local and state significance. Like the NRHP, evaluation for eligibility to the CRHR requires an establishment of historic significance before integrity is considered. In addition to separate evaluations for eligibility for the CRHR, the state automatically lists on the CRHR resources that are listed or determined eligible for the NRHP through a complete evaluation process.

**California Code of Regulations Section 4852(c).** This code section addresses the issue of “integrity” which is necessary for eligibility for the California Register. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” Section 4852(c) provides that historical resources eligible for listing in the California Register must meet one of the criteria for significance defined by 4852(b)(1 through 4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. To retain historic integrity, a property must possess several, but not necessarily all of the seven aspects. The property must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance. Determining which of these aspects are most important to a particular property is based on knowing why, where, and when the property is significant.

**AB133.** Under California law (AB133), any “religiously-affiliated” organization owning “non-commercial” historic property may be exempted from local landmarks laws, regardless of the purposes for which the property is used. This state law includes residential and other properties owned by religious institutions. In order to invoke exemption under AB133, the religiously affiliated organization must formally object to the application of the law, and determine in a public forum that application of the law will result in a substantial hardship, that is likely to deny the organization either an economic return on its property, the “reasonable use” of its property, or the appropriate use of its property in the furtherance of its religious mission.

## LOCAL

**Los Gatos General Plan.** The Community Design Element of the Los Gatos 2020 General Plan (Town of Los Gatos, 2010) contains a number of policies related to preservation and protection of historic structures and cultural resources. However, the project site is not located within an historic district in the Town, and none of the existing structures are significant historical resources. For informational purposes, the General Plan goals and policies pertaining to historical resources and project consistency are discussed below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures, which would avoid potential environmental impacts associated with potential conflicts with policies designed to avoid environmental impacts. Project consistency with those guidelines is discussed in the following project consistency analysis table.

**General Plan Policies***Community Design Element*

*Goal CD-12 To preserve significant historic and architectural features within the Town.*

*CD-12.1: Avoid demolishing historic buildings, unless the Planning Commission finds, based on substantial evidence, that there is no feasible means to ensure the preservation of the structure.*

*CD-12.2: Encourage the preservation, maintenance, and adaptive reuse of existing residential, commercial, or public buildings.*

**Project Consistency Analysis**

The project site is currently developed with 85,000 s.f. of building space and many of these buildings were constructed in the 1950s. While many of the site's existing buildings are over 50 years in age, the historic evaluation determined that none appear to be significant historical resources that would be eligible for listing on the California Register of Historical Resources. Neither the subject property nor any of the individual extant buildings within the project site are listed in the California State Historic Property Data File. The project site and its buildings and structures are not listed on any county, state, or national register of historic resources, nor was the site identified as historic and recorded in any prior historic surveys by the Town of Los Gatos. Therefore, the site does not contain significant historical or architectural features and demolition of the existing buildings would not be inconsistent with Goal CD-12 and Policy CD-12.1. Because the existing buildings are not historical resources, preservation of existing buildings on the site as historical resources is not justified; therefore, development of the project site as proposed would not conflict with Policy CD-12.2.

**Los Gatos Town Code – Historic Preservation Ordinance.** The Town Code contains provisions for the designation and protection of historic structures (Town Code, Sections 29.80.215 – 29.80.315). The purpose of the Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone is defined in Section 29.80.215(1) to (4). According to this code section, the Town seeks to promote “the protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important in local, State, or National history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the Town and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived.”

The Town Code addresses historical resources in Article VIII - Overlay Zones and Historic Preservation, Division 3 - Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone. This Historic Preservation Code is dedicated to preserving historical and architectural resources in Los Gatos. The Code establishes an Historic Preservation Committee and an Historic Preservation Program that includes a comprehensive series of standards and guidelines concerning the preservation and demolition of historic structures, design guidelines for rehabilitation and new construction, and guidance in the application of historic preservation standards. The Town recognizes an historical resource as follows: 1) Any structure/site that is located within an historic district; 2) Any structure/site that is historically designated; or, 3) Any primary structure constructed prior to 1941, unless the Town has determined that

the structure has no historic significance or architectural merit.<sup>3</sup> The Town Council designates landmark sites and districts by ordinance.

Section 29.80.230, Determination by Ordinance, states the following:

- “(a) The Council may by ordinance designate:
- (1) One (1) or more individual structures or other features, or integrated groups of structures and features on one (1) or more lots or sites, having a special character or special historical, architectural or aesthetic interest or value, as landmarks, and shall designate a landmark site for each landmark; and,
  - (2) One (1) or more areas containing a number of structures having special character or special historical, architectural or aesthetic interest or value, and constituting distinct sections of the Town, as historic districts.
- (b) Each designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation, and a list of any particular features in addition to those features which would be affected by work described in Section 29.80.260 that are to be preserved, and shall specify the location and boundaries of the landmark site or historic district.
- (c) A lot zoned LHP may only be used in the manner provided in the underlying zone, however, the Town Council, on the basis of the evidence submitted at the hearing, may permit an existing use not otherwise permitted in the underlying zone to continue providing the Council makes the following findings:
- (1) The use has been legal and continues to operate in a manner that is not detrimental to other uses in the general vicinity;
  - (2) There is no history of complaints about the use;
  - (3) Removal of the use to another location would effectively end the significance of the historical designation on the property; and,
  - (4) The use has been legally and continuously operating for at least fifty (50) years. The specific use and the findings to support its continuance shall be incorporated in the designating ordinance.
- (d) If the use permitted by subsection (c) above is discontinued for one hundred eighty (180) consecutive days, the use shall not be resumed and the use of the property shall conform with the provisions of the underlying zone. Token use does not toll or interrupt a period of discontinuance.
- (e) The property designated shall be subject to the controls and standards contained in this division. In addition, the property shall be subject to the following further controls and standards if imposed by the designating ordinance:
- (1) For a publicly owned landmark, review of proposed changes in major interior architectural features.
  - (2) For a historic district, such further controls and standards as the Council finds necessary or desirable, including but not limited to facade, setback and height controls.
- (f) The Council may amend or rescind a designation only by ordinance, after Planning Commission and Council hearings as required for original designations.”

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<sup>3</sup> Los Gatos General Plan – Community Design Element. Adopted September 20, 2010.

The project site is not located within an historic district within the Town, and none of the existing structures have been designated as historic buildings. As such, the provisions contained within the Town Code that pertain to the designation and protection of historic structures are not applicable to the project.

**Los Gatos Town Code –Demolition Regulations (Town Code Section 29.10.09030).** Demolition of historic structures (located in a historic district or on a historic site and/or constructed before 1941) can only be approved under the Los Gatos Town Code if the structure poses an imminent safety hazard, or if the structure is determined not to have any special historical, architectural or aesthetic interest or value.

The Town of Los Gatos defines demolition of historic structures to mean:

- (1) Removal of more than twenty-five (25) percent of the wall(s) facing a public street(s) (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of all exterior walls; or
- (2) Enclosure or alteration (ie: new window and or window relocation) of more than twenty-five (25) percent of the walls facing a public street (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of the exterior walls so that they no longer function as exterior walls; or all remaining exterior walls must be contiguous and must retain the existing exterior wall covering. No new exterior wall covering shall be permitted over the existing exterior wall covering.

The following are exempt from this definition:

- a. *Replacement.* The exterior wall covering may be removed if the covering is not original to the structure.
- b. *Repair.* The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.
- c. *Removal.* The removal of an addition(s) that is not part of the original structure and which has no historic significance, as determined by the Historic Preservation Committee. Demolition shall be determined by subsections (1) and (2) above for the original structure, where walls enclosed by additions shall be considered as exterior walls.

Demolition of nonhistoric structures is defined to mean: removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls must be contiguous and must maintain either the existing interior or existing exterior wall covering.

The project site is not located within an historic district within the Town, and none of the existing structures have been designated as historic buildings. As such, the provisions contained within the Town Code that pertain to the demolition of historic structures do not apply to the project.

### 4.11.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, the proposed project would have a significant effect on cultural resources if it would:

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

The California Environmental Quality Act (CEQA) defines an “historical resource” as a resource that meets one or more of the following criteria: (1) listed in, or determined eligible for listing in, the California Register of Historical Resources (California Register or CRHR); (2) listed in a local register of historical resources as defined in Public Resources Code (PRC) Section 5020.1(k); (3) identified as significant in an historical resource survey meeting the requirements of PRC Section 5024.1(g); or, (4) determined to be an historical resource by a project’s Lead Agency [PRC Section 21084.1 and *CEQA Guidelines* Section 15064.5(a)(3)]. An historical resource consists of:

“Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered an historical resource, provided the lead agency’s determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources.”

*CEQA Guidelines* Section 15064.5(a)(3)(A through D) indicates that an historical resource may be eligible for inclusion on the CRHR, as determined by the State Historical Resources Commission or the lead agency, if the resource:

- “Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;”
- “Is associated with the lives of persons important in our past;”
- “Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or”

- “Has yielded, or may be likely to yield, information important in prehistory or history.”

When a proposed project may cause a substantial adverse change to an historical resource, CEQA requires the lead agency to consider the possible impacts before proceeding (PRC Sections 21084 and 21084.1). CEQA equates a substantial adverse change in the significance of an historical resource with a significant effect on the environment (PRC Section 21084.1). The Act explicitly prohibits the use of a categorical exemption within the *CEQA Guidelines* for projects that may cause such a change (PRC Section 21084).

The *CEQA Guidelines* also require consideration of “unique archaeological resources.” A “unique archaeological resource” is defined as “an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; (2) Has a special and particular quality such as being the oldest of its type or the best available example of its type; or (3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.” [Public Resources Code Section 21083.2(g)].

If an archaeological site does not meet the criteria for inclusion on the CRHR but does meet the definition of a unique archeological resource as outlined in the Public Resource Code (Section 21083.2), it is entitled to special protection or attention under CEQA. Treatment options under Section 21083.2 of CEQA include activities that preserve such resources in place in an undisturbed state. Excavation is a possible form of mitigation, but only with respect to “those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.” [Public Resources Code Section 21083.2(d)].

Public Resources Code Section 15064.5(e) of the *CEQA Guidelines* requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of Native Americans, the Native American Heritage Commission must be contacted within 24 hours. At that time, Section 15064.5(d) of the *CEQA Guidelines* directs the lead agency to consult with the appropriate Native Americans as identified by the Native American Heritage Commission and directs the lead agency (or applicant), under certain circumstances, to develop an agreement with the Native Americans for the treatment and disposition of the remains.

For historic structures, Section 15064.5(b)(3) of the *CEQA Guidelines* indicates that generally a project that follows the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the

Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), shall mitigate impacts to a level of less than significant. Potential eligibility of an historic structure rests upon the integrity of the resource. Integrity is defined as the retention of the resource's physical identity that existed during its period of significance. Integrity is determined through considering the setting, design, workmanship, materials, location, feeling and association of the resource. [California Code of Regulations, Title 14, Section 4852(c)].

## **METHODOLOGY**

This section evaluates the potential for impacts on historical resources by providing historical information and findings of historical significance presented in the historic resources evaluation by Archives & Architecture in March 2013 (included in Appendix I). The proposed project's potential impacts on archaeological resources are assessed based on the cultural resources study that was completed for the proposed project by Holman & Associates in July 2013. This study included an archaeological literature review conducted at the Northwest Information Center (NWIC). The potential for impacts on paleontological resources is determined based on a review of records maintained by the University of California Museum of Paleontology in Berkeley. The potential to encounter paleontological resources at the site was determined by comparing the geologic strata where the closest recorded paleontological resources were found to underlying geologic units at the project site.

## **HISTORICAL RESOURCES**

### **Impact 4.11-1: Project implementation would not affect any historical resource as defined in CEQA Guidelines Section 15064.5. (No Impact)**

Under CEQA, a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. The significance of an historical resource is materially impaired when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in the California Register, or in a local register of historical resources as defined by Public Resources Code Section 5020.1(k), or its identification in an historical resources survey meeting the requirements of Public Resources Code Section 5024.1(g).

The Sisters of the Holy Names of Jesus and Mary project site does not appear eligible for the California Register of Historical Resources, and buildings and structures within the proposed project site have not been identified as historically significant in any qualifying survey of historical resources. The Town of Los Gatos has not designated the site as a Landmark, nor determined the site eligible for Landmark designation or the existing buildings to be historical resources. Based on these findings, demolition of the buildings and structures would not appear to create an adverse effect on the environment as defined by

CEQA, because the site does not qualify as a historical resource under the CEQA Guidelines. Prior to demolition, the demolition contractor would be required to advertise the availability of stone/rock features and other building materials for salvage, as required by Town Code.

*Mitigation Measure 4.11-1: None required.*

#### ARCHAEOLOGICAL RESOURCES

#### **Impact 4.11-2: Demolition and construction activities on the project site could cause a substantial adverse change in the significance of unknown subsurface archaeological resources, including the disturbance of human remains. (Less Than Significant With Mitigation)**

No evidence of historic and/or prehistoric archaeological resources was found on the project site, either during the archival research or the field inspection. Holman & Associates concluded that there is a very low potential that any future development of the parcel would uncover buried prehistoric materials. The project site, located in the hills above Los Gatos, could have, at best, potentially been used for hunting and gathering activities by the local Native Americans. However, the lack of level ground and easily reached water would have discouraged the prehistoric population of the area from any extended activities which could have led to the deposition of archaeological materials. The potential for discovery is further reduced by the amount of past earthmoving activities, which would have destroyed potentially significant archaeological deposits.

In general, there is also a low potential that future earthmoving associated with project implementation could uncover historic-era archaeological deposits associated with the early owners of the property. However, the potential to encounter buried resources during building demolition cannot be completely eliminated. Therefore, the potential to uncover buried historic-era archaeological deposits or late 19th to early 20th century material culture is considered to be a potentially significant impact. Implementation of Mitigation Measure 4.11-2 would require that a qualified archaeologist be present to monitor proposed building demolition activities in designated areas to identify and protect any buried resources if they are discovered. Such implementation would reduce this impact to less than significant.

*Mitigation Measure 4.11-2a, Archaeological Monitor: An archaeologist experienced with historic-era archaeological deposits and late 19th to early 20th century material culture and human remains shall be present during building demolition of designated areas (refer to confidential Map 1 of Holman study, which is on file at the Los Gatos Community Development Department) to monitor for any historic-period buried features, such as artifact-filled wells, privies, and pits associated with the earlier historical use of the property from the late 19th and early 20th centuries.*

*Based on the monitor's findings during demolition, the monitor shall review specific development plans for roads and infrastructure and eventually for future homes (during Architecture and Site review) and evaluate the need for additional archaeological monitoring by a qualified historical archaeologist.*

*In the event cultural resources are discovered during removal of existing buildings, parking lots and landscaping areas or during construction of proposed improvements, a preliminary evaluation of the find should be conducted by a qualified archaeologist with appropriate measures taken commensurate with the type of cultural resource identified and the amount of proposed impacts. A buffer zone, typically 100 feet in diameter, should be established to protect the find until it can be evaluated, and the area should be secured to prevent looting. A plan for the evaluation of the resource shall be submitted to the Community Development Director for approval. Evaluation normally takes the form of limited hand excavation and analysis of materials and information removed to determine if the resource is eligible for inclusion on the California Register of Historic Resources (CRHR). No demolition/construction activity should continue in this area until the qualified archaeologist has sufficiently documented and excavated the discovery in the field, and has authorized continued demolition/construction.*

**Mitigation Measure 4.11-2b, Identification of Eligible Resources.** *If an eligible resource (i.e., an historical resource or a unique archaeological resource) is identified, a plan for mitigation of impacts to the resource shall be submitted to the Community Development Department for approval before any additional construction-related earthmoving can occur inside the zone designated as archaeologically sensitive. Whether the proposed plan is feasible shall be determined by the Community Development Department after consideration of the viability of avoidance in light of project design and logistics. In lieu of avoidance, mitigation could include additional hand excavation to record and remove for analysis archaeological materials, combined with additional archaeological monitoring of soils inside the archaeologically sensitive zone.*

*Section 21083.2(f) specifies that unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after the applicant receives the final approval necessary to begin physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable. The above listed mitigation measures can be effectively performed in a manner that complies with Section 21083.2.*

**Impact Significance After Mitigation:** Less than significant because (i) an archaeological monitor is required to be present during site demolition activities; and (ii) the presence of the monitor and additional measures recommended by him or her and accepted by Town staff would ensure that appropriate protection measures would be taken in the event buried archaeological resources are encountered during project construction.

## PALEONTOLOGICAL RESOURCES

### **Impact 4.11-3: Demolition and construction activities on the project site would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. (Less Than Significant With Mitigation)**

Paleontological resources are the fossilized remains of plants and animals, including vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and fossils of microscopic plants and animals (microfossils). The age and abundance of fossils depend on the location, topographic setting, and particular geologic formation in which they are found. Fossil discoveries not only provide an historic record of past plant and animal life, but may assist geologists in dating rock formations. A review of records maintained by the University of California Museum of Paleontology in Berkeley indicates that the closest paleontological resources recorded in Santa Clara County occur approximately 15.5 miles west of Los Gatos. These resources were discovered in geologic strata dating from the Late Pliocene and Miocene epochs of the Tertiary Period (65 to 1.8 million years ago).

The project site is underlain by the Santa Clara formation. This geological formation is more recent in geological time than the formation containing the paleontological resources recorded by the UCMP in the Los Gatos vicinity. Based on the characteristics of the geological formations containing recorded paleontological resources in the project region, the potential for uncovering paleontological resources on the project site is considered to be low. However, since there remains the potential for impacts on any undiscovered resources to occur, implementation of Mitigation Measure 4.11-3 would be required to reduce this impact to a less-than-significant level.

Additionally, no unique geological features are present on the site. The site is currently developed with structures, parking lots, driveways, landscaping, and utility improvements. No unique geological or topographical features were observed on the project site. Therefore, development of the site would not result in significant impacts on unique geological features.

***Mitigation Measure 4.11-3, Halt Construction and Evaluate Resource:*** *Prior to the commencement of construction activities, the project applicant shall provide for a qualified paleontologist to provide construction personnel with training on procedures to be followed in the event that a fossil site or fossil occurrence is encountered during construction. The training shall include instructions on identification techniques and how to further avoid disturbing the fossils until a paleontological specialist can assess the site. An informational package shall be provided for construction personnel not present at the meeting.*

*In the event that a paleontological resource (fossilized invertebrate, vertebrate, plant or micro-fossil) is found during construction, excavation within 50 feet of the find shall be temporarily halted or diverted until the discovery is evaluated. Upon discovery, the Community Development Director shall be notified immediately and a qualified paleontologist shall be retained to document and assess the discovery in accordance with Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and determine procedures to be followed*

*before construction is allowed to resume at the location of the find. If the Community Development Director determines that avoidance is not feasible, the paleontologist will prepare an excavation plan for mitigating the project's impact on this resource, including preparation, identification, cataloging, and curation of any salvaged specimens.*

**Impact Significance After Mitigation:** Less than significant because (i) construction personnel shall receive training on identification techniques and procedures to follow if a fossil resource is encountered; and (ii) a qualified paleontologist shall assess the resource and determine procedures to ensure that appropriate protection measures would be taken in the event buried paleontological resources are encountered during project construction.

#### REFERENCES – CULTURAL RESOURCES

Archives & Architecture, LLC, 2013. *Historic Resources Evaluation, Sisters of the Holy Names of Jesus and Mary, A California Corporation, 200 Prospect Avenue, Los Gatos, Santa Clara County, CA (APN 529-44-005)*. March. (Included as Appendix I of this EIR)

Holman & Associates, 2013. *Cultural Resources Study of the Sisters of the Holy Names Property, 100 Prospect Avenue (APN-529-44-005), Los Gatos, Santa Clara County, California*. July 12.

Town of Los Gatos, 2011. *Town of Los Gatos 2020 General Plan*. January 7. Available online at <http://www.losgatosca.gov/index.aspx?NID=27>.

U.S. Department of the Interior, 1997. *How to Apply the National Register Criteria for Evaluation*. National Register Bulletin Number 15. Available online at: <http://www.nps.gov/nr/publications/bulletins/nrb15/http://www.nps.gov/nr/publications/bulletins/nrb15/>.

University of California Museum of Paleontology in Berkeley. *UC Museum of Paleontology Localities, Santa Clara County*. Available online at: [http://ucmpdb.berkeley.edu/cgi/ucmp\\_query2?stat=BROWSE&query\\_src=ucmp\\_BrowseUSstates&table=ucmp\\_loc2&where-state\\_prov\\_std=California&where-county\\_std=Santa+Clara+County&orderby=county\\_std](http://ucmpdb.berkeley.edu/cgi/ucmp_query2?stat=BROWSE&query_src=ucmp_BrowseUSstates&table=ucmp_loc2&where-state_prov_std=California&where-county_std=Santa+Clara+County&orderby=county_std)

## **4.12 PUBLIC SERVICES, UTILITIES, AND SERVICE SYSTEMS**

Public services include fire protection, law enforcement, water services, wastewater services, emergency services, schools, libraries, medical facilities, and other utilities (including electricity, gas, telephone, and cable television). In municipal areas such as the Town of Los Gatos, individual departments within the government provide law enforcement, fire protection, and emergency services to their communities.

It is not anticipated that the proposed project would affect telephone facilities; therefore, no or minimal discussion on such facilities are included in this section. Potential impacts to parks are discussed in Section 4.13, Recreation. Public providers associated with public transportation are discussed in Section 4.6, Transportation and Traffic. Storm water drainage is discussed in Section 4.5, Water Quality. The subject of energy (including a discussion of potential impacts associated with the delivery of electricity and natural gas to the project site) is addressed in Section 4.14, Energy Resources.

### **4.12.1 ENVIRONMENTAL SETTING**

#### **FIRE PROTECTION SERVICES**

The Santa Clara County Fire Department provides fire protection services to the project area. Daily emergency response staffing consists of 68 career fire personnel on a 24-hour shift assignment plus one 40-hour Battalion Chief in Battalion 12, operating 20 pieces of first-line apparatus, plus four Battalion Chief command vehicles, operating from 17 fire stations. Department staffing also includes 29 trained volunteer firefighters. The Department employs a form of "peak load staffing" by staffing patrols and other apparatus during high fire danger periods, during storms and anticipated flooding, and for special events (Santa Clara County Fire Department, 2012).

First-call equipment is deployed to deliver initial fire attack and EMS services within seven minutes at least 90% of the time. Ladder trucks are located to respond on all first and second alarms in designated urban areas. A standard first-alarm assignment for structure fires consists of two engine companies, a ladder truck company, a rescue or hazardous materials company and a Battalion Chief totaling fifteen persons. On working fires, the response may be duplicated with Department resources as a second alarm. Total staffing for two alarms is 30 persons. A rescue or hazmat unit fills out an alarm.

Department facilities supporting fire protection services to the area include the Los Gatos Fire Station and the Shannon Road (Shannon Road and Cherry Blossom Lane) Fire Station. Personnel and equipment from the Los Gatos Fire Station at 306 University Avenue, located 0.67 mile north of the project site, would provide the first response to emergency calls to the site. Additionally, the Shannon Road Fire Station would provide back-up response to this area.

The Los Gatos Fire Station is staffed with one battalion chief, seven firefighters and two fire engines (#3 and #110) with pumping capacities of 1,250 gallons per minute (gpm) and 600 and 500 gallons of water,

respectively. Shannon Fire Station is staffed with three firefighters and one fire engine (#6) with a pumping capacity of 1,500 gallons per minute (gpm), 750 gallons of water, and two foam units.

### **LAW ENFORCEMENT SERVICES**

Public safety services for the project site include police protection by the Los Gatos/Monte Sereno Police Department (Los Gatos/Monte Sereno Police Department, 2012). The police department serves a combined population of approximately 34,000 residents.

The police department consists of the following individual departments: administration, records and communications, patrol, investigations, traffic program, personnel and community services and parking management. The department is comprised of 64 sworn and civilian personnel, and over 150 community volunteers. Staffing levels entail one chief, two captains, nine sergeants, and 30 officers. The project site is located in Beat 3.

The Los Gatos/Monte Sereno Police Department station is approximately 5,500 square feet located within the Town's Civic Center complex. The Town relocated certain police operations to a new facility at 15900 Los Gatos Boulevard. The police substation on Los Gatos Boulevard houses police operations that include: patrol operations, the investigations unit, and evidence storage. Other personnel located at the site include the operations captain, a patrol and administrative sergeant, and an evidence technician. Police administration, records, and dispatch remain in headquarters at the Town Civic Center complex. In total, the existing Police Department offices at the Civic Center in combination with the Los Gatos Boulevard facility occupy a 12,260 square foot area.

The patrols for beats within the Los Gatos – Monte Sereno communities consist of three shifts, with three to four officers and one sergeant on duty per shift. Patrols originate from the operations center on Los Gatos Boulevard. The response times to calls for assistance are categorized according to three levels of priority. Generally for this Beat, Priority 1 (immediate) response times are 4.9 minutes, while Priority 2 and 3 response times are 6.7 and 15.2 minutes, respectively.<sup>1</sup>

### **SCHOOL SERVICES**

The subject property is located within the district boundaries of the Los Gatos Union School District (LGUSD) and the Los Gatos-Saratoga Union High School District (LGSUHSD). The Los Gatos Union School District has four elementary schools and one middle school providing educational services to the children of Los Gatos:

- Blossom Hill Elementary School (16400 Blossom Hill Road)
- Daves Avenue Elementary School (17770 Daves Avenue)

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<sup>1</sup> Email Communication from Sergeant Steve Walpole to Frederick Geier on August 21, 2013.

- Lexington Elementary School (19700 Old Santa Cruz Highway)
- Van Meter Elementary School (16445 Los Gatos Boulevard)
- Raymond J. Fisher Middle School (19195 Fisher Avenue)

All of the elementary schools serve kindergarten through grade five. Raymond J. Fisher Middle School serves Los Gatos students in grades six through eight.

The District has grown annually from 2,587 students in the 2006/07 school year to 3,115 students in the 2011/12 school year. The five years of growth have resulted in a 528 student increase for an average of approximately 105 students per year. During this timeframe there was only a minimal amount of new housing units built within the District boundaries, suggesting growth was caused by other factors rather than new development. The most likely cause of growth was from a positive net migration of families with school-age children moving into the District.

For schools serving the project area, the 2011-12 enrollment at Van Meter Elementary School was 634 students; the total capacity of Van Meter Elementary School is 693 students. The enrollment of Fisher Middle School was 1,073 students; Fisher Middle School has a total capacity of 1,334 students. The 2012 utilization rates for the two schools are 91% and 79%, respectively.

The LGUSD anticipates increased enrollment over the next ten years. Beyond the 2011-2012 school year, the LGUSD expects enrollment to exceed the current total capacity of 3,490 students. An evaluation of the community's demographics prepared for the District provides enrollment forecasts under four scenarios, ranging from enrollment projections without future residential growth to projections including moderate to maximum allowable residential densities.<sup>2</sup> Under the latter two scenarios, 2021-2022 District enrollment would rise to 3,744 and 3,830 students, representing a 20 to 23% increase, respectively, over current enrollment. Also, the District has prepared "Imagine LGUSD 2022," a master planning study that will guide the use and development of facilities over the next ten years. The study was presented to the District Board and public in December 2012.

The LGSUHSD has two high schools, Los Gatos High and Saratoga High, which serve over 3,100 students from unincorporated Santa Clara County as well as the communities of Los Gatos, Monte Sereno and Saratoga.

Los Gatos High School enrollment increased from 1,754 in the 2010-2011 school year to 1,798 enrolled students in 2012-2013; its total capacity is 1,825. It is anticipated that enrollment in LGSUHSD over the next five years will continue to increase by an average of 2.5% per year. At this rate of annual increase, the Los Gatos High School enrollment could exceed capacity in the 2013-2014 school year; however, it

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<sup>2</sup> Moderate Residential Growth includes all approved and known future development at half of maximum unit numbers; Maximum Residential Growth assumes full build-out of allowable unit numbers.

should be noted that the enrollment for the high school has ranged from 1,733 to 1,821 students from 2005-2006 to 2011-2012 school years.

Improvements planned for Los Gatos High School do not include the addition of any classrooms; however, the District anticipates the construction of facilities for athletics and/or physical education classes, expansion of the theater building, construction of a new digital media building, and infrastructure and parking improvements. Planned improvements for Los Gatos High School are described in detail in the District's 2009 Master Plan.

### **WATER SERVICE**

Water service to the project area is provided by the San Jose Water Company (SJWC). The SJWC supplies domestic water to unincorporated County, Los Gatos, Monte Sereno, San Jose, Campbell, Saratoga, and Cupertino. Water supply sources include ground water, mountain surface water, imported surface water, and the Cupertino Water System. Groundwater is pumped from over 100 wells that draw water from the Santa Clara Groundwater Basin. During 2000, groundwater pumped from deep wells was approximately 39 percent of SJWC's supply.

Imported surface water is provided by Santa Clara Valley Water District (SCVWD), a wholesale supplier. Surface water imported from the Sacramento-San Joaquin Delta and purchased from the SCVWD comprises 51 percent of SJWC's supply. A majority of this water originates as Sierra snowmelt, and travels through the State and Federal water projects before treatment at the District's three treatment plants. A smaller portion is impounded in local reservoirs in Santa Clara County.

Local mountain surface water is collected from the local watershed in the Santa Cruz Mountains, and treated at two treatment plants. Local surface water from the watershed in the Santa Cruz Mountains is 10 percent of SJWC's supply. SJWC has indicated that there are no water supply constraints to providing new water service to the project area.

Existing 6-inch and 4-inch water lines in Reservoir Road and Prospect Avenue, respectively, provide domestic water for residential uses in the project area. As part of project implementation, new 8-inch water lines would be extended along the proposed cul-de-sac and Prospect Avenue (between the southern project boundary and Reservoir Road), connecting with an existing water line in Prospect Avenue (at Reservoir Road).

### **WASTEWATER SERVICE**

The West Valley Sanitation District (WVSD) provides wastewater collection and disposal services for the cities of Campbell, Los Gatos, Monte Sereno, much of Saratoga and some unincorporated areas of the county within the district boundary. WVSD serves approximately 112,000 persons, including almost all of the population of the Town of Los Gatos.

The WVSD's system within the Town of Los Gatos consists of gravity mains ranging from 6 inches to 27 inches in diameter. The collection system flows north, exiting the Town limits through multiple trunk sewers. These systems continue to the north through the City of San Jose trunk sewers and ultimately to the San Jose/Santa Clara Water Pollution Control Plant in Alviso.

The San Jose/Santa Clara Water Pollution Control Plant cleans and treats the wastewater of approximately 1,500,000 people that live and work in the 300-square-mile area encompassing the cities of San Jose, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga and Monte Sereno. The plant has the capacity to treat 167 million gallons of wastewater per day (mgd) utilizing an advanced, tertiary wastewater system. Most of the final treated water from the Plant is discharged as fresh water through Artesian Slough and into South San Francisco Bay. About 10% is recycled through South Bay Water Recycling pipelines for landscaping, agricultural irrigation, and industrial needs around the South Bay. The WVSD has a contract with the City of San Jose for a percentage of the capacity of their sewage treatment facilities. In return, the contract requires the WVSD to pay its share of debt service, operation, maintenance and improvement costs.

There are approximately 8,419 connections for single-family residential uses, 3,188 connections for multi-family uses, 756 connections for commercial/industrial uses for a total of 12,363 connections in the Town of Los Gatos. The WVSD has a fixed allocation of the San Jose/Santa Clara Water Pollution Control Plant, which was 13.052 mgd in fiscal year (FY) 2004–2005. In FY 2004–2005, the WVSD collected and conveyed 10.675 mgd of wastewater to the treatment plant, which was far less than its allocated capacity. Because of the excess capacity, the WVSD sold 1.0 mgd of treatment plant capacity to the City of Milpitas in 2006 and now has the capacity for 12.052 mgd. In FY 2009-2010, the WVSD collected and conveyed 10.417 mgd, a decrease from the 2004-2005 wastewater flow levels, and below the contracted capacity of 12.052 mgd.

### **SOLID WASTE SERVICE**

The West Valley Collection & Recycling, LLC (WVCR) is the exclusive recycling, green waste, and garbage hauler for the Town of Los Gatos, the cities of Campbell, Monte Sereno, and Saratoga and unincorporated Santa Clara County. All recycling, green waste, and garbage are picked up by WVCR and transported directly to the Guadalupe Landfill, located in the City of San Jose.

The Guadalupe Landfill is a Class III solid waste landfill. The total permitted capacity of the landfill is 16.5 million cubic yards. As of January 2011, the landfill has used approximately 5.4 million cubic yards or approximately 33% of its capacity. The projected capacity remaining as of early 2011 is 11.1 million cubic yards. Currently, the landfill is expected to reach its capacity in 2048.

WVCR provides single stream recycling to single-family and multi-family residents as well as commercial customers. Single stream recycling means all recyclables are placed in a single bin and do not need to be sorted based on the material type (i.e. paper, plastic, metal, etc.). All recyclable materials are

sorted at WVCR's Materials Recovery Facility (MRF) in the City of San Jose. WVCR also collects green waste, or yard trimmings, from residential customers. The green waste is taken to the Guadalupe Landfill.

### **OTHER UTILITIES**

The project area contains a number of utility lines that serve the existing uses on site. These utilities include electric and gas lines, telephone service lines, and cable television lines.

### **4.12.2 REGULATORY AND PLANNING FRAMEWORK**

#### **2010 CALIFORNIA FIRE CODE**

The *California Fire Code* (2010) contains regulations relating to construction and maintenance of buildings and the use of premises, among other issues. The CFC also references Chapter 7A of the 2010 California Building Code and Section 313.3 of the 2010 California Residential Code, which contain specific requirements for fire-safe construction.

#### **SB 50**

Senate Bill 50 (SB 50), adopted in 1998, defined the school impact fee "Needs Analysis" process in Government Code Sections 65995.5-65998. Pursuant to its provisions, school districts may collect fees to offset the costs associated with increasing school capacity as a result of development. By statute, payment of a statutory fee by developers serves as the total mitigation of the potential impact of a development on school facilities pursuant to CEQA.

#### **CALIFORNIA CODE OF REGULATIONS TITLE 24**

New buildings in California are required to conform to energy conservation standards specified in Title 24 of the California Code of Regulations (CCR). The building efficiency standards are enforced through the local building code or individual agency permitting process. The Town of Los Gatos requires all new buildings to meet Title 24 standards. The purpose of the CALGreen Code is to enhance the design and construction of buildings through the use of building design and construction standards that either reduce negative environmental impacts, or have positive environmental impacts and by encouraging sustainable construction practices. The Green Code provides standards for planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. The Code became effective on January 1, 2011. Refer to Section 4.14, *Energy Conservation*, for analysis of the project's energy conservation measures.

#### **NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS**

The NPDES permit system was established as part of the *Clean Water Act* (CWA) to regulate discharges from all point sources. Section 402(d) of the CWA establishes a framework for regulating nonpoint source (NPS) storm water discharges under the NPDES permit program. For point source discharges,

such as sewer outfalls, each NPDES permit contains limits on allowable concentrations and mass emissions of pollutants contained in the discharge. A detailed discussion of project compliance with NPDES Permit requirements is presented in Section 4.5, Hydrology and Water Quality.

#### **STATE OF CALIFORNIA WATER RECYCLING ACT**

Enacted in 1991, the *Water Recycling Act* established water recycling as a priority in the State. The Act encourages municipal wastewater treatment districts to implement recycling programs to reduce local water demands.

#### **AB 939 – CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT OF 1989**

The *California Integrated Waste Management Act of 1989* (AB 939) requires all California cities and counties to achieve a 50% diversion rate by 2000. The *Santa Clara County Integrated Waste Management Plan* (CIWMP) outlines the goals, policies, and programs the County and its cities will implement to create an integrated and cost effective waste management system that complies with the provisions of AB 939 and its diversion mandates. Additional statutes pertaining to solid waste are found in *California's Public Resources Code, Government Code, and Health and Safety Code*, among others.

#### **URBAN WATER MANAGEMENT PLANNING ACT**

The Urban Water Management Planning Act (California Water Code Section 10631) requires every urban water supplier that provides water to 3,000 or more customers or provides over 3,000 acre-feet of water annually to prepare and adopt an urban water management plan (UWMP) (updated every 5 years) for the purpose of “actively pursu[ing] the efficient use of available supply.” In preparing the UWMP, the urban water supplier is required to coordinate with other appropriate agencies, including other water suppliers that share a common source, water management agencies, and relevant public agencies. When a city or county proposes to adopt or substantially amend a general plan, the water agency is required to provide the planning agency with the current version of the adopted UWMP, the current version of the water agency’s capital improvement program or plan, and other information about the system’s sources of water supply. The Urban Water Management Planning Act also requires urban water suppliers, as part of their long-range planning activities, to make every effort to ensure the appropriate level of reliability in their water service sufficient to meet the needs of their various categories of customers during normal, dry, and multiple dry water years.

#### **SENATE BILL 610**

SB 610 (Cal. Water Code, § 10910 et seq.) requires that CEQA review for statutorily defined “projects” include a “water supply assessment.” The assessment must address whether existing water supplies will suffice to serve the project and other planned development over a 20-year period in average, dry, and multiple-dry year conditions, and must set forth a plan for finding any additional supplies necessary to serve the project. For residential uses, California Water Code Section 10912 defines a project as

residential developments of more than 500 dwelling units. Consequently, the residential development proposed for the project site is not considered a project and is not subject to the provisions of SB 610.

### **SCVWD – WATER SUPPLY AND INFRASTRUCTURE MASTER PLAN**

The Santa Clara Valley Water District’s (District) Water Supply and Infrastructure Master Plan (Water Master Plan) is the District’s strategy for providing a reliable supply of water for Santa Clara County. The Water Master Plan specifies:

- The preferred combination of water supply sources and conservation programs to meet the county’s future water demands to 2035;
- New infrastructure and infrastructure capacity increases needed to treat, store, and convey future water supply sources; and
- Operational approaches to manage water supplies and infrastructure.

The Water Master Plan will update the District’s strategy for ensuring future water supply reliability in light of future uncertainty and increasing demands for water by providing up to date analyses in the following key areas:

- Existing water supplies and infrastructure;
- Future water demands and supply needs;
- Risks to water supplies;
- Potential projects to meet future needs;
- The preferred water supply strategy consisting of a range of components for meeting future demands;
- Benefits and costs associated with this strategy; and
- Schedule for implementing key components of the strategy.

The District is in the process of developing a plan for implementation of the recommended water supply strategy based on finances, risk, and water supply needs. The District accepted a Water Supply Strategy on May 15, 2012 and adopted the Water Supply and Infrastructure Master Plan in October 2012.

### **LOS GATOS GENERAL PLAN**

The General Plan is a policy document to assist and guide local decision makers. The General Plan also contains policies that pertain to public services, utilities, and service systems. Project consistency with policies pertaining to public services, utilities, and service systems are discussed below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential environmental impacts associated with potential conflicts with policies designed to

avoid such impacts. Project consistency with those guidelines is discussed in the following project consistency analysis table.

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### General Plan Policies

#### *Land Use Element*

*LU-4.2: Allow development only with adequate physical infrastructure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.).*

*LU-4.4: Project applicants shall evaluate and provide appropriate mitigation measures to reduce impacts on urban services including schools, utilities, police and fire.*

*LU-6.6: In order to reduce landfill, conserve resources and preserve neighborhood character, demolitions shall be discouraged in established residential neighborhoods and applicants shall submit structural reports to determine whether the demolition of any principal structure is justified. If allowed, the replacement house should be similar in size and scale as other homes in the neighborhood and maintain the neighborhood character.*

### Project Consistency Analysis

Public services and utilities are already provided to existing facilities on the project site. The project would result in a decrease in population on the project site and a corresponding decrease in demand for public safety services, water and wastewater services, and energy requirements. The existing infrastructure serving the project site would be adequate to serve the residential use proposed for the project site. The applicant's planning team has obtained will-serve responses from the various service agencies that would provide their respective services to the new residential development.

The proposed residential use of the project site would require the demolition of current facilities on the property. Re-use of the site's existing facilities for residential purposes would not comply with General Plan Land Use designation and zoning for the project site. Thus, demolition of the existing structures would not conflict with Policy LU-6.6.

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#### *Environment and Sustainability Element*

*ENV-6.3: Require new construction to incorporate water-efficient landscaping following the Town's Water Efficiency Landscaping Ordinance.*

*ENV-6.5: Require the use of water-saving devices in new developments and plumbing-related remodels, and develop incentives to encourage their installation in existing development.*

*ENV-6.6: Promote the installation of water-efficient irrigation management systems and devices, such as evapotranspiration or soil moisture-based irrigation controls.*

*ENV-10.2: Encourage recycling and reuse of building materials from remodeled and demolished buildings.*

*ENV-15.3: Encourage the use of recycled-content construction materials in new construction.*

*ENV-15.4: Reuse and rehabilitate existing buildings when appropriate and feasible in order to reduce waste, conserve resources and energy, and reduce construction costs.*

*ENV-17.1: Require new construction and remodels to use energy- and resource-efficient and ecologically sound designs, technologies and building materials, as well as recycled materials to promote sustainability.*

The proposed project entails subdivision of the property into 17 residential lots. The residences on these lots would be designed and developed in the future by one or more builders. The proposed residential designs, including landscaping plans, would be subject to Town A&S review for compliance with Town objectives and Policies.

The Town will use its design review, oversight, and approval processes to ensure the implementation of policies promoting the use of recycled-content for construction. Through the Town's A&S review process, the project design will include appropriate energy- and resource-efficient designs and technologies as required in the Sustainability Plan's GHG Reduction Measure GB-3 (see Section 4.9 under Regulatory and Planning Framework for more discussion).

The Town Building Code requires the diversion or salvage of 50 percent of non-hazardous construction and demolition debris, with the exception of excavated soils and land-clearing debris, for re-use or recycling.. In addition, Town Code requires developers to provide an opportunity

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**General Plan Policies**


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**Project Consistency Analysis**


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*Safety Element*

*SAF-2.1: New development located in or adjacent to fire hazard areas shall be designed and sited to minimize hazards to life and property. Utilize fire preventive site design, access, fire-safe landscaping and building materials, and incorporate fire suppression techniques.*

*SAF-3.3: Ensure emergency fire and medical services are available and ensure adequate water supply for fire emergencies.*

*SAF-7.1: Work with the Santa Clara County Fire Department to ensure that first response travel time is maintained and enhanced where possible.*

*SAF-7.3: New development shall be required to incorporate adequate emergency water flow, fire resistant design and materials and evacuation routes.*

*SAF-7.4: New development shall be accessible to emergency vehicles and shall not impede the ability of service providers to provide adequate emergency response.*

*SAF-8.1: Build and require roadways that are adequate in terms of width, radius and grade to accommodate Santa Clara County Fire Department fire-fighting apparatus, while maintaining Los Gatos's neighborhoods and small-town character.*

*SAF-8.2: Identify and mitigate fire hazards during the project review and approval process.*

*SAF-8.3: New development shall satisfy fire flow and hydrant requirements and other fire-related design requirements as established by the Town and recommended by the Santa Clara County Fire Department.*

*SAF-8.4: Encourage the installation of interior emergency sprinkler systems, fire-safe building materials, early warning systems and sufficient water supply systems for fire suppression in new development of remodels.*

*SAF-9.2: Pursue community policing and other crime prevention measures for increased public safety.*

*SAF-10.1: Emphasize the use of physical site planning as an effective means of preventing crime. Open spaces, landscaping, parking lots, parks, play areas and other public spaces shall be designed with maximum possible visual and aural exposure to community residents.*

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for the public to salvage building materials from demolished structures (see Section 4.12, Public Services, Utilities, and Service Systems, Impact 4.12-5 for more discussion).

The Santa Clara County Fire Department has conducted a preliminary review of the conceptual site plan and determined that fire protection access to project units and the site would be adequate. In addition, the Fire Department's review identifies specific design requirements that are a condition of the Fire Department approval of the project. The project design shall include fire sprinklers, protection of potable water supplies, public fire hydrants, appropriate access for fire apparatus, protected access to emergency escape windows, and suitable identification of premises. The Fire Department will perform further design review for fire code compliance after residential plans are submitted to the Town. The Town's A&S review process will ensure that project design elements are consistent with applicable codes, ordinances (e.g. Water Efficiency Landscaping Ordinance) and the intent of the Human Services policies of the 2020 General Plan.

The discussion above also identifies at least two different access routes to the project site for emergency service and public safety vehicles. Additionally, residential plans will be submitted to the Police Department for review and recommendations for design features that will ensure a residence design that responds to the need for public safety services. The project, as proposed, complies with width, turning radii and grade requirements of the Santa Clara County Fire Department.

The project has been preliminarily reviewed by the Fire Department and San Jose Water company and complies with fire flow and hydrant requirements. The fire department and town code require sprinklers, fire safe building materials, sufficient water systems and are required as conditions of approval for individual homes.

### 4.12.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, a project would normally have a significant impact on public services, utilities, or service systems if the proposed project would:

- 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 following public services: fire protection, police protection, schools, parks, other public facilities;
- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Have insufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed;
- Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it does not have adequate capacity to serve the project's projected demand in addition to the providers existing commitments;
- Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs;
- Not comply with federal, state, and local statutes and regulations related to solid waste.

A review of the project's potential effects on park facilities is addressed in Section 4.13, Recreation.

#### EMERGENCY AND PUBLIC SERVICES

**Impact 4.12-1: Redevelopment of the project site with new single-family residential uses would require continued fire protection services for future residents, visitors, and property improvements, as has been required for existing uses on the site; new or physically altered governmental facilities would not be required to provide adequate fire and emergency medical protection services for the proposed project. (Less than Significant)**

The proposed project would replace the existing Convent facilities with 17 new single-family residences. Presently, the project site receives fire protection and emergency medical services from the Santa Clara

County Fire Department. The Fire Department would continue to provide these services to the site during project development and operation.

The planning and design efforts for the project have been coordinated with the Fire Department throughout the design process to ensure compliance with fire safety guidelines and standards. The Department reviewed preliminary project plans for site access and water supply, and specified requirements for roadway access and turnarounds, road widths, emergency access gates, fire hydrant location and spacing, fire lanes, building access, water supply, and sprinkler systems. The project's lot design reflects these requirements; specific fire safety requirements for residential structures will be incorporated into project design as the plans for individual residences are formulated and submitted to the Town and Fire Department for review and approval.

**Building Materials.** The project site and adjacent residential areas are located in the Wildland Urban Interface Fire Area (WUIFA) as defined by the Town of Los Gatos, State officials, and Chapter 7A of the 2007 CBC. Requirements for the construction of the single-family buildings in a WUIFA include:

- Windows with a minimum of one tempered pane to meet code requirements;
- Exterior walls that consist of approved, non-combustible or ignition resistive materials in accordance with Chapter 7A of the California Building Code; and
- Proposed materials reviewed and approved by Town and County officials for use within the WUIFA.

The project will be required to comply with all other applicable codes for fire safety prior to permitting.

**Landscaping.** The proposed residential buildings would be located above heavily wooded hillsides east of College Avenue. The existing hillside vegetation is comprised of trees of varying species and health, with grasses and shrubs in the understory. Section 4.3, Biological Resources, provides a detailed discussion of the project area's vegetative cover.

Demolition of structures on the property would reduce existing fire hazards on the site. In addition, minor grading of the site for the proposed residential lots would result in the clearing of vegetation in the immediate vicinity of the construction site. The County's hazardous vegetation abatement program requires a 30-foot clearance around structures in a fire zone. The Town will comply with this County requirement on an annual basis. New landscape material for future residences would be specified as part of the residential design process for the 17 residences proposed for the site. All of the residences proposed for construction on the site would be subject to the Town's Architecture and Site review process to ensure compliance with landscape design guidelines.

**Temporary and Long-Term Fire Hazards.** Fire hazards would be increased temporarily at the site during project construction. The Fire Department will review the construction management plans to ensure that hazardous materials are stored appropriately. The Town's Building Division will be

responsible for periodic inspections to verify implementation of materials storage requirements. The Fire Department will require, as conditions of approval, that (1) water supply installations and adequate emergency vehicle access be provided to the site prior to the start of combustible construction; (2) the existing on-site fire hydrant between the two largest existing buildings remain active during demolition of those buildings; and (3) the fire hydrant at the end of Prospect Avenue possibly be installed prior to demolition of the northernmost building.

Over the long-term, fire hazard risks in the project area would be comparable to existing levels or reduced through the overall reduction in population density on the project site. Additionally, public activity associated with events conducted at the project site (e.g. multi-day conferences) along with reduction in service deliveries to the project area would contribute to the reduction in activities at the site. Fire Department requirements for provision of fire equipment access, fire hydrants, adequate water supply (separate service water lines onto the site), and sprinkler systems in buildings would further help reduce the fire hazard risks.

Compliance with Fire Department requirements to ensure adequate access, fire hydrants, fire flows, and sprinkler systems in buildings would ensure that the project's increased fire hazards and impact on fire protection services would be less than significant.

*Mitigation Measure 4.12-1: None required.*

**Impact 4.12-2: The proposed residential use would require police protection services for future residents, visitors, and property improvements, as has been required for existing uses on the site; the project would not result in substantial adverse physical impacts associated with the provision of new or physically altered police facilities. (Less than Significant)**

As with fire protection services, the Los Gatos/Monte Sereno Police Department currently patrols the project area and would be able to provide its high level of police protection service for the new residential development. The Department has also indicated that its response times would generally remain unaffected by the need to serve the proposed residential development from the substation on Los Gatos Boulevard. Therefore, the project's impact on police services would be less than significant.

*Mitigation Measure 4.12-2: None required.*

## SCHOOLS

**Impact 4.12-3: The proposed residential project would generate new students, but would not contribute substantially to the increase in demand for educational services within the service area of the Los Gatos Union School District and the Los Gatos-Saratoga Union High School District and would not result in substantial adverse impacts associated with the provision of new or physically altered facilities. (Less than Significant)**

An extensive evaluation of educational services and facilities available to the community was conducted as part of the environmental review for the Los Gatos 2020 General Plan. The environmental impact report for the General Plan (Los Gatos, 2010) analyzed the potential effects of community growth on the demand for educational services through the year 2020. That analysis is incorporated herein by reference.

Based upon population growth estimates identified by the 2020 General Plan, the project would add approximately four new students to the Los Gatos Union School District and three new students to the Los Gatos-Saratoga High School District. Students generated by the proposed project would contribute to the cumulative demand for educational services and result in enrollments that exceed current district capacities. As part of this assessment of impacts on the community's educational services, the analysis of new development identified specific properties and projects that would contribute to increased student enrollment in local school districts. The General Plan and its EIR included the residential development of the Convent site as part of the assumed growth that would occur in the town through 2020.

In addition to the goals, policies and actions in the Draft 2020 General Plan, future development within the planning area would be required by law to pay development impact fees to each school district at the time of the building permit issuance. These fees are used by the school districts to mitigate impacts associated with long-term operation and maintenance of school facilities with new development in accordance with State law. Pursuant to Section 65996(3)(h) of the California Government Code, payment of these fees "is deemed to be full and complete mitigation of impacts of any legislative or adjudicative act, or both, involving but not limited to, the planning, use, or development of real property, or any change in government organization or reorganization." Any secondary environmental impacts resulting from the construction of new schools would be analyzed by each School District prior to construction of any new schools. Therefore, with payment of development impact fees to each school district as required by law, the project's impact on the schools attended by project students would be less than significant.

*Mitigation Measure 4.12-3: None required.*

#### **WATER SERVICE**

**Impact 4.12-4: The proposed project would not incrementally increase water demand within the service area of the San Jose Water Company and would not require or result in the construction of new water facilities or expansion of existing facilities; sufficient water supplies are available to serve the project from existing entitlements and resources. (Less than Significant)**

The 17 new residential units would receive domestic and fire protection water service from existing water service lines in the project area. Based upon domestic water usage estimates from the Los Gatos 2020 General Plan (2010), the application of the single-family water consumption standard of 400 gpd per residential unit would generate a water demand of 6,800 gpd. Domestic and fire service water would be provided to the project site through a proposed 8-inch pipe and an existing 4-inch pipe in Prospect Avenue.

As indicated in Section 4.14, Energy Conservation, Impact 4.14-2, the comparison of existing water usage on the site with projected water use for the proposed residential development shows that overall water usage on the project site would decrease with project implementation. Significant reductions in water demand would result from compliance with current code requirements for use of water-conserving fixtures in new construction. The San Jose Water Company has indicated that it has sufficient water supplies to serve the proposed project.<sup>3</sup> No new or expanded entitlements would be needed. Therefore, the project's impact on water service would be less than significant.

*Mitigation Measure 4.12-4: None required.*

#### WASTEWATER SERVICE

**Impact 4.12-5: The project site currently generates wastewater flows requiring collection and treatment by West Valley Sanitary District Facilities; construction of the proposed residential use would require continued wastewater services and District facilities have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. (Less than Significant)**

The new residential development would be served by a new 8-inch sewer line that would extend along Prospect Avenue and the site's proposed cul-de-sac. A new line would also be extended along Reservoir Road from its intersection with Prospect Avenue to an existing sewer line in Reservoir Road approximately 450 feet east of the project site. The Town has coordinated its planning process to date to incorporate the West Valley Sanitation District's requirements for relocation of sewer lines.

The Los Gatos 2020 General Plan provides a daily wastewater generation rate estimate of 121 gallons per unit for residential development. Using the Town's estimate, the proposed project's 17 dwelling units would be expected to generate wastewater flows of approximately 2,057 gpd. Based upon wastewater treatment plant allocations for the West Valley Sanitation District (WVSD) as described above, the District has adequate collection facilities and treatment capacity to accommodate wastewater flows from the proposed residential development and no new or expanded facilities would be required. Therefore, the project's impact on wastewater service would be less than significant.

The principal impacts of sewer pipe installation would result from excavation and trenching for pipe removal and installation. Potential impacts from grading, excavation, and trenching associated with demolition of existing facilities on-site and construction of proposed facilities are discussed in Sections 4.4 and 4.6, Geology and Soils and Hydrology and Water Quality, respectively. In general sewer lines would be located within existing and proposed streets, minimizing impacts related to pipe installation.

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<sup>3</sup> Written Communication with Jim Bariteau, Director of Engineering, Water Services and Planning Division, San Jose Water Company on July 11, 2013.

*Mitigation Measure 4.12-5: None required.*

#### **SOLID WASTE SERVICE**

**Impact 4.12-6: Demolition of structures on the project site would not generate extensive amounts of solid waste with required implementation of Town and State recycling requirements. Development of proposed single-family residential use would result in the generation of solid wastes requiring recycling and/or disposal at local landfill sites, in compliance with federal, state, and local statutes and regulations related to solid waste. (Less than Significant)**

The demolition of structures on the project site would result in the generation of extensive solid waste materials that require removal from the site and disposal. In addition, the construction of 17 single-family residences on the project site would also generate construction waste requiring disposal.

**Construction and Demolition Materials.** The proposed residential development of the site would require the demolition of six buildings and miscellaneous site improvements. A demolition assessment was conducted for the project site to determine the amount of debris the site would generate and the disposition of demolition materials. The surveyed buildings to be removed include: the Marian Building, Siena Building, Cortona Building, Seraphine Building, Stone House, Regional Office and miscellaneous sheds and support buildings.

The survey and debris calculation was compiled using a combination of architectural and civil plans, site investigation and satellite imagery. Assumptions were made based on past project experience and industry standards to calculate the approximate amount of debris to be off-hauled and equipment to be used during the demolition process. The assessment assumes that some of the concrete debris can be crushed on site and used as base rock for new roads, driveways and building pads.

The debris that would result from building demolition would consist of: wood, drywall, carpet, vinyl, ceramic, plaster, glass, metal and other miscellaneous building materials. The total estimated amount of debris to be generated from demolition is approximately 2,967 cubic yards. Proposed tree removal would produce approximately 1,680 cubic yards of green waste debris. Finally, the demolition assessment estimates that there would be approximately 3,666 cubic yards of concrete and asphalt generated at the site. Approximately 1,736 cubic yards could be crushed on-site and used as base rock (based on the preliminary site plan dated 03/19/2013); the remaining 1,930 cubic yards of asphalt and concrete would be hauled off-site (Buccaneer Demolition, 2013). Diversion of 50 percent of construction waste for reuse or recycling is already required as part of the Town Building Code. As with other demolition materials generated by projects in the town, the Town Code requires developers to provide an opportunity for the public to salvage building materials from demolished structures. Developers must advertise in a newspaper when a structure is available for salvaging. All wood, metal, glass, and aluminum materials generated from a demolished structure must be recycled. The recycling process for these one-time waste materials would minimize the project's contribution to the waste stream and landfill disposal. The total permitted capacity of the landfill is 16.5 million cubic yards. As of January 2011, the landfill has used

approximately 5.4 million cubic yards or approximately 33% of its capacity. The projected capacity remaining as of early 2011 is 11.1 million cubic yards and would be able to accommodate the project site's anticipated construction waste stream after required recycling has occurred. With Town Code requirements for diversion and reuse, the project's impact on the generation of demolition waste would be less than significant.

**Solid Waste and Recycling.** The 2020 General Plan EIR provides estimates of solid waste generation for new development within Los Gatos over the next 10 years. Using the estimated generation rate of 12.23 pounds per unit per day for residential land uses, the proposed 17 residential units would generate approximately 208 pounds of solid waste per day. The implementation of the General Plan policies for solid waste handling would promote waste reduction and compliance with recycling regulations. As with construction waste materials, the receiving Guadalupe Landfill site would have adequate capacity to accommodate solid waste generated by residential uses proposed for the project site. Consequently, the project's impact on solid waste services would be less than significant.

*Mitigation Measure 4.12-6: None required.*

#### REFERENCES - PUBLIC SERVICES, UTILITIES, AND SERVICE SYSTEMS

Buccaneer Demolition, 2013. *Demolition Debris Calculation and Equipment Survey, Prepared for Sisters of the Holy Names of Jesus and Mary*. July 22.

San Jose Water Company, 2011. *San Jose Water Company 2010 Urban Water Management Plan*. April. Available online at <http://www.water.ca.gov/urbanwatermanagement/2010uwmps/San%20Jose%20Water%20Company/SJWC'S%202010%20UWMP%20with%20Appendicies.pdf>.

Santa Clara County Fire Department, 2013. *Development Review Comments, Residential Development, 100 Prospect, Los Gatos*. Plan Review 13 0755. April 4.

Santa Clara Valley Water District, 2012. *Water Supply and Infrastructure Master Plan*. Available online at <http://www.valleywater.org/Services/WaterSupplyPlanning.aspx>

Santa Clara Valley Water District, 2003. *Integrated Water Resources Planning Study 2003*. December 2005. Available online at <http://www.valleywater.org/Services/WaterSupplyPlanning.aspx>.

West Valley Sanitation District, 2013. *Letter from Eric Evans, Associate Civil Engineer, to Jennifer Harmon, RBF Consulting, regarding Proposed 17-lot Subdivision at 100 Prospect Ave, Los Gatos*. May 17.

## 4.13 RECREATION

This chapter addresses potential impacts of the project on parks and recreational amenities within the project vicinity. This section also describes the environmental and regulatory settings and discusses potential mitigation measures to reduce project impacts, where applicable.

### 4.13.1 ENVIRONMENTAL SETTING

The Town of Los Gatos contains a variety of public parks and recreational facilities including 16 publicly-owned and operated facilities. Fourteen of these parks are located on Town-owned land and are operated and maintained by the Department of Parks and Public Works. The remaining two parks are owned and maintained by the Santa Clara County Parks and Recreation Department. The park facilities inventory in the Town's General Plan indicates that there are approximately 240 acres of parkland in Los Gatos. In addition to the public parks in town, the community is served by: 1) nine local public school district facilities; 2) one community-based facility; 3) five faith-based facilities; 4) one private school facility; and 5) four private athletic club facilities (Town of Los Gatos, 2010).

In the project area, Novitiate Park and St. Joseph's Hill Open Space are located approximately ¼ mile southwest and south of the site. The Town's Pageant Grounds are situated across Highway 17 from the site about ¼ mile northwest of the project site and the Town Plaza Park is located approximately ¼ mile to the northeast of the site (Town of Los Gatos, 2008; Town of Los Gatos, 2012).

Los Gatos also contains several multi-use trails and bikeways that provide transportation connections and recreational opportunities for residents and visitors. The Los Gatos Creek Trail (LGCT) extends along the creek to the west of the project area and Novitiate Park. An extensive multi-use trail system occurs in both the Novitiate Park and St. Joseph's Hill Open Space areas. A Class I bikeway is proposed for the Los Gatos Creek Trail alignment, while a Class III bikeway is proposed for future development along Jones Road, connecting with College Avenue and Main Street. This proposed bikeway would be accessible from Prospect Avenue, which serves the project site.

The Los Gatos Health and Fitness Club, at 285 E. Main Street, is located approximately a half mile to the northeast of the site and offers a variety of fitness and exercise programs. The Los Gatos United Methodist Church is approximately 0.4 mile northeast of the project site and offers Live Oak Adult Day Services, a non-profit community service agency providing a specialized program of recreation and socialization opportunities.

### 4.13.2 REGULATORY AND PLANNING FRAMEWORK

#### STATE

**Quimby Act.** The Quimby Act of 1975 (California Government Code Section 66477, adopted 1975 and amended 1982)), part of the Subdivision Map Act, was intended to require developers seeking

subdivision approvals to assist in mitigating the potential impacts resulting from improvements that may directly or indirectly increase the need for recreational facilities or park lands within a given city or county. The Act authorized cities to pass ordinances that require developers to set aside a portion of their land, donate conservation easements, or pay fees for park improvements. Such fees are required to be paid and land conveyed directly to the local public agencies that are responsible for the provision of park and recreational services and amenities within the affected community.

In 1982, the Quimby Act was amended to allow local governments to be held accountable for imposing park development fees. The 1982 amendment to Assembly Bill 1600 requires that agencies demonstrate a reasonable relationship between the public need for a recreation facility or park land and the development upon which the fee is being imposed. Cities and counties were required to show a strong direct relationship (or nexus) between park fees imposed and a proposed development. As a result, local ordinances are required to include specific standards for identifying the percentage of a subdivision to be dedicated and/or the relative fee that is required.

Within the State of California, the Quimby Act establishes standards for park lands for local jurisdictions. The Act establishes a maximum of three acres of park land dedication/fee per 1,000 residents unless the amount of existing neighborhood and community park land exceeds that limit (at the time of adoption). If the three acre per 1,000 residents standard is exceeded, a greater standard of five acres per 1,000 residents may be adopted by the jurisdiction in order to meet anticipated park land needs.

## REGIONAL

**Santa Clara County Countywide Trails Master Plan.** The County of Santa Clara adopted its Countywide Trails Master Plan on November 14, 1995 as part the Parks and Recreation Element of the County General Plan. The Master Plan identifies the specific functions and benefits of a countywide trail system: outdoor recreation, transportation, education, public health, and social well-being. The Countywide Trail System as envisioned by the Master Plan provides for regional, sub-regional, and connector trails throughout the county. Of these, the LGCT is a sub-regional trail described as:

“S4 - Los Gatos Creek Trail: from its confluence in San Jose at the Guadalupe/Santa Teresa trail upstream through Campbell and Los Gatos to the Bay Area Ridge Trail (R5-A) at Lexington Reservoir.”

These sub-regional trails play a crucial role in by serving connected communities in one or more of the following ways:

- “provide regional recreation and transportation benefits such as providing key links for accessing rail stations, bus routes, or park-and-ride facilities;
- provide for continuity between cities; generally crossing a city or passing through more than one city; or

- provide convenient, long-distance trail loop opportunities by directly linking two or more Regional trails to create an urban trail network.”

The Master Plan notes that the LGCT has taken more than 25 years to develop to its current state extending nearly all the way from Lexington Reservoir to the Willow Glen area of San Jose. It is one of the most popular and heavily-used trails for both recreation and transportation in Santa Clara County. The LGCT is an example of successful inter-jurisdictional cooperation in the provision of recreational trails within the urban area. Along Los Gatos Creek, the cities of Los Gatos, Campbell, and San Jose, the County, the Santa Clara Valley Water District, and local school districts have worked together to create several miles of continuous hiking and bicycling trails linking parks and recreation areas along the way.

## LOCAL

**Los Gatos General Plan.** The Los Gatos 2020 General Plan (adopted September 20, 2010) identifies goals and policies pertaining to future growth within the Town of Los Gatos and the continued provision of adequate parks and recreational facilities for the general public. The Open Space, Parks, and Recreation Element guides the long-range preservation and conservation of open space, as well as parks and recreational facilities. Pertinent policies in this element and project consistency with these policies are presented below. In general, the proposed project would be consistent with these goals and policies or specified mitigation measures would avoid potential policy conflicts with policies designed to avoid such impacts. Project consistency with those guidelines is discussed in the following project consistency analysis table.

General Plan Policies	Project Consistency Analysis
<p><i>Open Space, Parks, and Recreation Element</i></p> <p><i>Goal OSP-2 To preserve open space in hillside areas as natural open space.</i></p> <p><i>OSP-2.1 Preserve the natural open space character of hillside lands, including natural topography, natural vegetation, wildlife habitats and migration corridors, and viewsheds.</i></p> <p><i>OSP-2.5 Maximize preservation of open space and scenic vistas in the hillside area by requiring dedications in fee (preferred) or easements and by restricting buildable areas on lots. Where buildable areas are restricted through clustering, planned developments, or other means, these means shall not allow higher overall density on the parcel than would otherwise be allowed by the zoning. Dedications should be granted to the Town and Mid-Peninsula Regional Open Space District.</i></p>	<p>The predominant open areas on the project site are located in the western half of the property, which consists of wooded hillsides between the site and properties on College Avenue and Prospect Court. The project would replace the Convent facilities with 17 residential lots that concentrate the building envelopes for new homes within the presently developed parts of the site. In this way, the project would comply with the General Plan’s goal and policies that encourage maximizing preservation of private open space and the clustering of buildable areas consistent with the zoning requirements for the property. The project plans preserve the natural open space character of site’s hillside areas, habitat provided by these parts of the site (including natural topography, natural vegetation, wildlife habitats and migration corridors), and viewsheds. The development application does not involve the use of a planned development (PD) approach for the new residential use and the proposed subdivision would be consistent with the density allowed by the existing residential zoning.</p>

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**General Plan Policies**

*OSP-3.5 Consider access from new residential developments to open space where appropriate.*

*OSP-3.6 Access roads shall be located, developed and maintained in ways that avoid negative impacts on open space areas.*

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*Goal OSP-5 To create and maintain open space areas and parks that enhance and blend into existing natural habitats, residential neighborhoods, and other Town features.*

*OSP-5.4 Maintain the Town's high standards for landscaping and tree preservation, helping to maintain cohesiveness between existing neighborhoods and surrounding open space areas and reducing disturbances to adjacent natural habitats.*

*OSP-5.5 Utilize private and public landscaping to help open space and park areas along Town streets blend with the surrounding neighborhood.*

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*Goal OSP-6 To consider the provision of open space within all development decisions within the Town.*

*OSP-6.1 Promote private open space in all planning decisions for new development.*

*OSP-6.2 New development projects shall include conditions to preserve open space.*

*OSP-6.8 Encourage the use of innovative development techniques which will provide open space within individual developments, public or private.*

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**Project Consistency Analysis**

The project would not create any public open space areas as part of the proposed residential development; however, the orientation of building sites in the part of the property presently developed with the Convent would promote the preservation of wooded hillside portions of the site as private open space on each lot. Also, the new residential development is situated just north of a park, Novitiate Park, and the St. Joseph's Hill Open Space area. Recreational trails are located as close as 700 feet from the project site and offer extensive recreational opportunities. Access would be available from Prospect and College avenues.

The project's proposed cul-de-sac alignment provides access to eight building sites in the center of the site. The new access road avoids the portion of the property that would be available and used for private open space.,,

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As discussed above, the project maintains private open space areas on the western half of the site on individual lots, retaining wooded hillsides for habitat and viewshed purposes.

The establishment of residential lots, access roads, and driveways would require the demolition of existing Convent facilities and the loss/removal of up to 94 trees. The project would preserve the remaining 398 trees on the site for aesthetic benefits. The retention of 81% of the trees on the property would be consistent with maintaining the cohesiveness between existing neighborhoods and surrounding open space, while minimizing disturbance to natural habitats. Private landscaping for future residences, as reviewed and approved through the Town's A&S review process, would ensure that the new residential development would blend with the nearby open space and park areas in the vicinity.

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The proposed project design would include the provisions of private open space area on the site as part of the residential lot development. Building site would be concentrated in the center of the site, replacing the site's existing facilities. The project application does not entail a planned development and zoning restrictions would apply to the proposed residential development. Given the proposed lot sizes, there would be opportunity for each home's location, design, and layout to provide for substantial private open space areas.

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**Los Gatos Town Code.** The Town's Subdivision Regulations, Section 24.50.050 of the Town Code, and Zoning Regulations, Section 29.10.06709 of the Town Code, provide for the Quimby Act and the dedication of open space. These sections both indicate that "Where consistent with the goals and policies

of the General Plan, the advisory body shall require dedication of open space to the Town, either in fee or as an easement, whichever will best implement the applicable policy. Fee dedication will ordinarily be required where public involvement is sufficiently active to warrant Town control and maintenance. Where public involvement is more passive, the owner will be asked to dedicate easements, and will retain ownership and responsibility for maintenance.”

### **4.13.3 POTENTIAL IMPACTS AND MITIGATION MEASURES**

#### **SIGNIFICANCE CRITERIA**

Based upon the criteria derived from Appendix G of the *CEQA Guidelines*, a project would normally have a significant impact on recreational facilities if the proposed project would:

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or,
- Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

#### **RECREATIONAL SERVICES/FACILITIES**

**Impact 4.13-1: Development of the proposed project would not increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated. (Less Than Significant)**

The project site presently supports residential use by 66 nuns; Convent facilities on the property provide a residential capacity for 140 persons. With the replacement of the Convent by 17 single-family residences, the population of the project site would change from 66 to approximately 41 persons, a population decrease of approximately 38%. As a result, the potential demand on public and private recreational facilities in the immediate project vicinity would diminish from current levels. Also, as discussed for other services, the Los Gatos 2020 General Plan specifies future residential use for the project site and the plans and policies guiding the development of recreational facilities in the town account for the anticipated population levels at the project site. Consequently, the project’s impacts on recreational facilities and services would be *less than significant*.

*Mitigation Measure 4.13-1: None Required.*

**Impact 4.13-2: Development of the proposed project would not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment. (Less Than Significant)**

The proposed project would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment. Given the number of future residents that would occupy the project site and the availability of public and private recreational facilities in the project

vicinity, it is not anticipated that the increased demand for recreational facilities from the proposed project would result in construction or expansion of new off-site recreational facilities. Therefore, the project would have *less than significant* effects from the development of new recreational facilities.

**Mitigation Measure 4.13-2:** *None Required.*

#### **REFERENCES – RECREATION**

Town of Los Gatos, 2012. *Parks and Trails*. Available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=170>.

Town of Los Gatos, 2010. *Los Gatos 2020 General Plan, Open Space, Parks, and Recreation Element*. Adopted September 20, 2012. <http://www.losgatosca.gov/index.aspx?NID=27>.

Town of Los Gatos, 2008. *Town of Los Gatos Parks, Open Space, and Trails Inventory*. Adopted May 16, 2008. Available online at [http://www.losgatosca.gov/documents/Community%20Development/Planning/Recreation%20Inventory/Final%20Inventory\\_reduced.PDF](http://www.losgatosca.gov/documents/Community%20Development/Planning/Recreation%20Inventory/Final%20Inventory_reduced.PDF).

## 4.14 ENERGY CONSERVATION

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act (CEQA) requires that environmental impact reports (EIRs) include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy [(see Public Resources Code Section 21100(b)(3)]. This section of the Code provides that EIRs shall include a detailed statement of a project's significant effects on the environment and mitigation measures proposed to minimize these significant effects, "including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy." The *CEQA Guidelines* [(Section 15162.4(a)(1)(C))] require an EIR to discuss energy conservation measures when relevant. Appendix F to the *Guidelines* addresses energy conservation goals, notes that potentially significant energy implications of a project shall be considered in an EIR to the extent relevant and applicable to the project, and contains general examples of mitigation measures for a project's potentially significant energy impacts.

### 4.14.1 ENVIRONMENTAL SETTING

#### CALIFORNIA'S ENERGY SUPPLIES

In 2010, California's in-state (71% of total) supply of electricity was derived from the following sources: natural gas (53.4%), nuclear (15.7%), hydroelectric (14.6%), renewables (14.6%), and coal (1.7%) (CEC, 2012). California policies aimed at diversifying the state's electrical supply have reduced the reliance upon two fossil fuels (natural gas and coal) from more than 80% in 2006 to approximately 55% of the 2010 energy consumed in the state. Overall electricity demand is forecasted to increase an average of 1.28% (peak demand will increase by 1.50%), even with the more aggressive building and appliance energy efficiency standards and programs. In 2011, 47% in the residential sector, 40% of electricity consumption was in the commercial sector, and 13% in the industrial sector (CEC, 2011).

California produces a relatively minor portion of its own natural gas supplies. In-state production in 2010 was approximately 12% of total supply, while the U.S. Southwest, the Rockies, and Canada provided approximately 42%, 23%, and 22% of the state's supply, respectively. By volume, California produced 734 million cubic feet (MMcf) of natural gas from the total demand for 6.041 MMcf for 2010.

A third major source of energy for California is crude oil. Oil supply sources for the state include in-state production, Alaska, and foreign imports. For 2011, California produced 38.22% of crude oil supplied to California refineries, while foreign sources and Alaska provided 49.94% and 11.84%, respectively, of the approximately 600 million barrels of crude oil delivered to refineries in the state.

## ELECTRICITY AND GAS PROVIDERS

Pacific Gas and Electric Company (PG&E) provides electricity and natural gas services to the Town of Los Gatos. The buildings on the project site are served by PG&E facilities in Prospect Avenue and Reservoir Road.

As part of the Town's General Plan Update process, the Town has prepared a Sustainability Plan (SP) in support of the General Plan policies and objectives. The SP includes energy usage information for the community's residential and commercial uses for the years 2006 through 2008. For this period, residential development in town used an annual average of 96,708,760 kilowatt-hours (Kwh) of electricity and 6,864,462 therms<sup>1</sup> of natural gas (PG&E, 2012). Based upon existing residential development indicated in the SP, the monthly energy usage was 664 Kwh and 47 therms per residential unit in the Town.

For existing energy consumption on the project site, monthly energy usage records were obtained for the Convent and Regional Office buildings on the property. Electric energy consumption for the two buildings in a one-month period was 40,480 Kwh. Natural gas usage in the two buildings for the one-month same period was 1,577 Therms.

### 4.9.2 REGULATORY AND PLANNING FRAMEWORK

#### FEDERAL

**Energy Independence and Security Act of 2007.** Signed into law in December 2007, this Act is an energy policy law that contains provisions designed to increase energy efficiency and the availability of renewable energy. The Act contains provisions for increasing fuel economy standards for cars and light trucks, while establishing new minimum efficiency standards for lighting as well as residential and commercial appliance equipment (CRS, 2007).

**Energy Policy Act of 2005.** Passed by Congress in July 2005, the Energy Policy Act includes a comprehensive set of provisions to address energy issues. The act includes tax incentives for the following: energy conservation improvements in commercial and residential buildings; fossil fuel production and clean coal facilities; and construction and operation of nuclear power plants, among other things. Subsidies are also included for geothermal, wind energy, and other alternative energy producers.

**National Energy Policy.** Established in 2001 by the National Energy Policy Development Group, this policy is designed to help the private sector and state and local governments promote dependable, affordable, and environmentally sound production and distribution of energy for the future (NEPDG, 2001). Key issues addressed by the energy policy are energy conservation, repair and expansion of energy infrastructure, and ways of increasing energy supplies while protecting the environment.

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<sup>1</sup> 1 therm is the heat energy equivalent of 100 cubic feet of natural gas.

**STATE**

**California Green Building Standards Code.** The 2010 California Green Building Standards Code, as specified in Title 24, Part 11, of the California Code of Regulations, specifies building standards to improve public health, safety, and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in five categories: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. The provisions of this code apply to the planning, design, operation, construction, replacement, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such building structures throughout California. The Town of Los Gatos has adopted the California Green Building Standards Code with no modifications.

**Building Energy Efficiency Standards.** The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. The current version of the standards became effective on January 1, 2010. California's building efficiency standards (along with those for energy-efficient appliances) have saved more than \$56 billion in electricity and natural gas costs since 1978. It is estimated that the standards will save an additional \$23 billion by 2013 (CPUC, 2008).

The energy efficiency standards are expected to reduce the growth in electricity use in California by 561 gigawatt-hours per year (GWh/y) and reduce the growth in natural gas use by 19 million therms per year (CEC, 2010). The savings in electricity attributable to new nonresidential buildings is 459 GWh/y of electricity savings and the savings in natural gas use is 11.5 million therms. The Town of Los Gatos has adopted the Energy Efficiency Standards for Residential and Nonresidential Buildings with no modifications.

The Energy Commission's 2013 Building Energy Efficiency Standards are 25% more efficient than previous standards for residential construction and 30% better for nonresidential construction. The Standards, which take effect on January 1, 2014, offer builders better windows, insulation, lighting, ventilation systems and other features that reduce energy consumption in homes and businesses. For nonresidential buildings, improved measures in the 2013 Standards include:

- High performance windows, sensors and controls that allow buildings to use "daylighting;"
- Efficient process equipment in supermarkets, computer data centers, commercial kitchens, laboratories, and parking garages;
- Advanced lighting controls to synchronize light levels with daylight and building occupancy, and provide demand response capability;

- Solar-ready roofs to allow businesses to add solar photovoltaic panels at a future date; and
- Cool roof technologies

Two energy policy goals are driving the design of the current standards: The Loading Order, which directs that growing demand must be met first with cost-effective energy efficiency and next with renewable generation; and "Zero Net Energy" (ZNE) goals for new homes by 2020 and commercial buildings by 2030. The ZNE goal means that new buildings must use a combination of improved efficiency and distributed renewable generation to meet 100% of their annual energy need.

**Long Term Energy Efficiency Strategic Plan.** In September 2008, the California Public Utilities Commission (CPUC) adopted the Long Term Energy Efficiency Strategic Plan, which provides a framework for energy efficiency in California through the year 2020 and beyond. It articulates a long-term vision as well as goals for each economic sector, identifying specific near-term, mid-term, and long-term strategies to assist in achieving these goals. This Plan sets forth the following four goals, known as Big Bold Energy Efficiency Strategies, to achieve significant reductions in energy demand:

1. All new residential construction in California will be zero net energy by 2020<sup>2</sup>;
2. All new commercial construction in California will be zero net energy by 2030;
3. Heating, Ventilation and Air Conditioning (HVAC) will be transformed to ensure that its energy performance is optimal for California's climate; and
4. All eligible low-income customers will be given the opportunity to participate in the low income energy efficiency program by 2020.

With respect to the commercial sector, the Plan notes that commercial buildings (which include schools, hospitals, and public buildings) consume more electricity than any other end-use sector in California. The commercial sector's 5 billion-plus square feet of space accounts for 38% of the state's power use and over 25% of natural gas consumption. Lighting, cooling, refrigeration, and ventilation account for 75% of all commercial electric use, while space heating, water heating, and cooking account for over 90% of gas use. In 2006, schools and colleges were in the top five facility types for electricity and gas consumption, accounting for approximately 10% of state's electricity and gas use.

The CPUC and Energy Commission have adopted the following goals to achieve zero net energy (ZNE) levels by 2030 in the commercial sector:

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<sup>2</sup> Zero net energy (ZNE) is a general term applied to a building with a net energy consumption of zero over a typical year. To cope with fluctuations in demand, zero energy buildings are typically envisioned as connected to the grid, exporting electricity to the grid when there is a surplus, and drawing electricity when not enough electricity is being produced.

- Goal 1: New construction will increasingly embrace zero net energy performance (including clean, distributed generation), reaching 100% penetration of new starts in 2030.
- Goal 2: 50% of existing buildings will be retrofit to zero net energy by 2030 through achievement of deep levels of energy efficiency and with the addition of clean distributed generation.
- Goal 3: Transform the commercial lighting market through technological advancement and innovative utility initiatives.

**Governor's Green Building Executive Order (S-20-04).** In 2004, this Executive Order was signed into law, committing the state to take aggressive action to reduce state building electricity usage by retrofitting, building, and operating the most energy and resource-efficient buildings by taking all cost-effective measures described in the Green Building Action Plan for facilities owned, funded or leased by the state and to encourage cities, counties and schools to do the same. It also calls for state agencies, departments, and other entities under the direct executive authority of the Governor to cooperate in taking measures to reduce grid-based energy purchases for state-owned buildings by 20% by 2015, through cost-effective efficiency measures and distributed generation technologies. These measures should include but not be limited to:

- Designing, constructing and operating all new and renovated state-owned facilities paid for with state funds as "LEED Silver" or higher certified buildings;
- Identifying the most appropriate financing and project delivery mechanisms to achieve these goals;
- Seeking out office space leases in buildings with a U.S. EPA Energy Star rating; and
- Purchasing or operating Energy Star electrical equipment whenever cost-effective.

The Order also required the Division of the State Architect in the Department of General Services to adopt guidelines by December 31, 2005, enabling and encouraging schools built with state funds to be resource and energy efficient. Pursuant to this requirement, the Division of the State Architect convened a schools workgroup and this group concluded that the best guideline to meeting this requirement is the *Best Practices Manual* by the Collaborative for High Performance Schools (CHPS).

**Other State Legislation and Policies.** Other statewide legislation and policies related to energy efficiency include the following:

California Global Warming Solutions Act of 2006 (AB 32). The Scoping Plan (adopted December 2008) recommends expanding and strengthening existing energy efficiency programs as well as building and appliance standards and sets a goal to achieve a statewide renewables energy mix of 33% (see Section 4.10, Climate Change, for more discussion).

Renewable Portfolio Standard (SB 107) and Governor's Renewable Energy Executive Order (S-14-08). California's Renewable Portfolio Standard (RPS) calls for more energy to come from clean, renewable

sources and accelerates the schedule for achieving the state's goal to have 20% of California's energy come from renewable energy sources. The RPS standard will accelerate this goal to 2010 rather than 2017, seven years earlier than the statute. On November 17, 2008, Executive Order S-14-08 was signed into law, raising California's renewable energy goals to 33% by 2020 and streamlining licensing for renewable projects.

Renewable Portfolio Standard (SB 107). Million Solar Roofs Initiative. This initiative establishes an incentive plan to install one million solar roofs in California by the year 2018, provide 3,000 megawatts of clean energy and reduce greenhouse gas emissions by 3 million tons.

California Energy Action Plan II. The *Energy Action Plan II* continues the goals of the original *Energy Action Plan*, describes a coordinated implementation plan for state energy policies, and identifies specific action areas to ensure that California's energy is adequate, affordable, technologically advanced, and environmentally sound. In accordance with this plan, the first-priority actions to address California's increasing energy demands are energy efficiency and demand response (i.e., reduction of customer energy usage during peak periods in order to address system reliability and support the best use of energy infrastructure). Additional priorities include the use of renewable sources of power and distributed generation (i.e., the use of relatively small power plants near or at centers of high demand). To the extent that these actions are unable to satisfy the increasing energy and capacity needs, clean and efficient fossil-fired generation is supported.

AB 2021, Establishment of Statewide Energy Efficiency Goals. This legislation requires all utilities, both investor-owned and municipal, to invest in all achievable cost effective energy efficiency programs in their service territories. This effort alone would reduce forecasted electricity demand by 10% over the next 10 years, offsetting the need to build 11 major power plants. While some municipal utilities have set strong energy efficiency goals, many others have not. Therefore, AB 2021 codifies a process just completed by investor-owned utilities with the CPUC to determine energy efficiency goals over the next three years to prevent the need for generation of over 30,000 gigawatt-hours.

Integrated Energy Policy Report. SB 1389 required the California Energy Commission (CEC) to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. The CEC adopts an Integrated Energy Policy Report (IEPR) every two years and an update every other year. The 2011 IEPR was adopted by the CEC on February 8, 2012, and this report focuses on meeting environmental goals to address climate change (reducing greenhouse gas emissions) while meeting the state's growing energy needs related to economic and population growth.

## LOCAL

**Los Gatos General Plan.** The role of each community's General Plan is to act as a constitution for development, the foundation upon which all land use decisions are to be based. Land use decisions not

only encompass zoning, but also circulation, design, open space, and other factors. The General Plan is a policy document to assist and guide local decision makers.

The Los Gatos 2020 General Plan contains policies that pertain to energy resources and sustainability in its Environment and Sustainability Element. The project's consistency with the goals and policies pertaining to energy use and conservation are discussed in the analysis of project consistency with the Sustainability Plan's GHG reduction measures in Section 4.9, Greenhouses Gas Emissions.

**Los Gatos Water Efficient Landscape Ordinance.** Los Gatos requirements for water efficient landscaping are provided in Chapter 26, Article IV of the Town Code. This code requires private development projects that require zoning approval or developer-installed landscaping in single-family projects of five (5) or more units to calculate the maximum applied water allowance for the irrigated area of the project site and develop a landscape design plan including appropriate plantings and an irrigation approach to ensure that irrigation quantities remain below the calculated maximum applied water allowance. In accordance with this code, plants should be selected for their adaptability to the site climatic, geologic, and topographic conditions, and protection and preservation of native species and natural areas is encouraged. Use of recycled water is encouraged where available. Once the landscape is constructed, a licensed landscape architect, irrigation designer, or certified professional in a related field in horticulture must conduct a final field inspection and provide a certificate of substantial completion to the owner of record and to the Town. The certificate must specifically indicate that plants were installed as specified and that the irrigation system was installed as designed. Any observed deficiencies must be noted.

### 4.14.3 POTENTIAL IMPACTS AND MITIGATION MEASURES

#### SIGNIFICANCE CRITERIA

Based upon the criteria derived from Appendix F of the *CEQA Guidelines* and Public Resources Code Section 21100(b)(3), a project will have a significant impact on energy if the proposed project would:

- Encourage activities that consume energy in a wasteful, inefficient, or unnecessary manner.

#### CONSTRUCTION IMPACTS

**Impact 4.14-1: Demolition of existing buildings and construction of the new residential uses would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner. (Less Than Significant With Mitigation)**

The demolition of existing facilities and construction of the new residences as proposed by the project would require the use of fuels (primarily gas, diesel, and motor oil) for a variety of construction activities, including excavation, grading, demolition, and vehicle travel. During these activities, fuel use for construction worker commute trips would be minor compared to the fuel use by construction equipment.

As a previously disturbed site, the project would not be required to use excessive amounts of fuel in landform alteration to prepare a graded pad. Excessive amounts of fuel would not be required for construction of roadways or new infrastructure to extend existing points of connection to new building locations. Although the fuels would only be used during construction of project facilities, excessive idling and other inefficient site operations could result in the wasteful use of fuels. Therefore, impacts related to the wasteful use of fuels during construction would be potentially significant for the proposed redevelopment of the project site. However, required implementation of certain exhaust control measures, such as limiting idling time and performing low-emissions tune-ups (see Section 4.8, Air Quality, Mitigation Measure 4.8-2), would ensure that fuels are not used in a wasteful manner and would therefore reduce this impact to less than significant.

Construction activities would also require the use of energy (e.g. electricity) and water for various purposes such as the operation of construction equipment and tools, and for dust suppression and equipment cleaning. The potentially excessive use of water would have indirect implications for energy use through the pumping requirements and associated energy needs to supply the water demand for project construction. The potential impacts of project development on fuel, water, and energy use would be reduced by the Town's required conformance to greenhouse gas reduction measures outlined in the Town's Sustainability Plan (see Section 4.9, Greenhouse Gas Emissions for more discussion). These measures incorporate energy conservation measures and require construction waste diversion and recycling/reduce of construction waste.

***Mitigation Measure 4.14-1:** Mitigation Measure 4.8-2. BAAQMD Basic Construction Measures.*

**Level of Significance After Mitigation:** Less than significant with implementation of idling limits specified in this measure because such limits would ensure that fuels are not used in a wasteful manner.

#### **OPERATIONAL IMPACTS**

**Impact 4.14-2: Operation of residences would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner. (Less Than Significant)**

Implementation of the proposed project would result in the replacement of existing site facilities with 17 new residences. The Los Gatos 2020 General Plan accounts for development of a total of 1,600 s.f. of new housing units during the General Plan timeframe and the proposed project would comprise approximately 1% of the Town's total planned addition of housing units by 2020. The project's increase in housing would result in a long-term increase in energy demand, associated primarily with the operation of lighting and space cooling/heating in the added building space. However, the new residences will be built using modern building materials and construction practices. The new buildings will use modern appliances and equipment. The proposed project would comply with Article VII (Energy Code) of the Town's Municipal Code, which reflects the requirements of the 2010 California Energy Code, CCR Title 24, Part 6. The State's Energy Code stipulates the requirements for appliance efficiency, space-conditioning, water-heating, heating and cooking equipment, lighting, windows and doors, insulation and

roofing materials. Compliance with the Town's Energy Code would ensure that energy would not be consumed in a wasteful, inefficient, or unnecessary manner.

Using the residential energy consumption information provided by the Sustainability Plan, the proposed project's 17 residences would be expected to use 11,288 Kwh and 799 Therms per month upon completion of all residences. In comparison, the existing monthly energy use occurring on the project site is 40,480 Kwh and 1,577 Therms. The substantially higher energy use on the project site most likely is the result of conference events and other activities that are conducted in conjunction with Convent operations. The proposed project would result in a net decrease in operational energy use with the conversion of the project site to only residential use. The proposed project's residential development would use only 28% of the current electric power consumed at the site and 51% of current natural gas consumption. This would be a beneficial impact of project development.

The residences would also require the indoor use of water for washing and other sanitary needs, food preparation, and other indoor activities. However, if the proposed housing is constructed after January 2014, the residences would need to comply with the water efficiency provisions of the 2013 California Green Building Code. Accordingly, the project would be required to incorporate plumbing fixtures and fixture fittings to reduce the amount of potable water used by 20% relative to the requirements of the California Building Code.

For outdoor water use (landscape irrigation), the future residences may be required to comply with maximum water use in accordance with the Water Efficient Landscaping requirements specified in Section 26.40.020 through 26.040.035 of the Los Gatos Municipal Code. The section of the Town Municipal Code applies to developer-installed landscaping in single-family projects of five or more units. Accordingly, the landscape plans for these future residences would be required to include plants adapted to the local climatic, geologic, and topographic conditions and an irrigation strategy and that would ensure that irrigation water use stays below the calculated maximum water use. Further, the landscape plans would be required to include weather or soil moisture based irrigation controllers that would automatically adjust irrigation in response to changes in plants' needs as weather conditions change, in accordance with the 2010 California Green Building Code or if a new Green Building Code has been adopted, the applicable Green Building Code. Compliance with the Green Building Code would ensure that water is not used in a wasteful or inefficient manner.

The project applicant has provided records for monthly water use on the project site for the period of June 2011 through May 2013. The monthly water use for the site facilities ranged from 7,503 to 32,712 gallons per day (gpd). The most recent record of monthly use was 17,043 gpd. For comparison purposes, the Los Gatos 2020 General Plan indicates that a single-family residence in Los Gatos is estimated to use approximately 400 gpd. Using the General Plan's water consumption estimates, the project's 17 residences would be expected to consume approximately 6,800 gpd, which would be about 40% of current monthly demand at the project site, resulting in a decrease in water demand. This would be a beneficial impact of project development.

With implementation of the 2010 California Green Building Code and Los Gatos Water Efficient Landscaping requirements, the project would not use large amounts of water or use water in a wasteful manner, therefore impacts related to water use would be less than significant.

In addition to the above energy and water conservation measures, the project's proximity (approximately 0.25 mile) to the commercial uses of the Los Gatos Downtown area, Los Gatos High School, alternative transportation modes (existing bus stops), and Los Gatos Creek Trail for pedestrians and bicycles (0.3 mile) would ensure that the operation of the project would not use fuel in a wasteful manner. The project also would not result in a substantial increase in the use of fuel in the operations phase. The project is developing a site that is currently used for both residential and meeting purposes. The reduction of visitors to the site would result in overall The redevelopment of the project site for only residential uses would preclude site use for group meetings of visitors travelling to the site, with the associated reduction in fuel used by visitors to the convent. For these reasons, the project would not result in a significant increase in the use of fuel.

**Mitigation Measure 4.14-2:** *None required.*

#### REFERENCES – ENERGY CONSERVATION

California Energy Commission (CEC), 2007. *Integrated Energy Policy Report, 2007 Summary*. Available online at [http://www.energy.ca.gov/2007\\_energypolicy/](http://www.energy.ca.gov/2007_energypolicy/).

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Los Gatos Sustainability Plan (available online at <http://www.town.los-gatos.ca.us/index.aspx?NID=1860>)

National Energy Policy Development Group (NEPDG), *National Energy Policy*. May 2001. Available online at <http://www.energy.gov/about/nationalenergypolicy.htm>.  
<http://www.energy.gov/about/nationalenergy-policy.htm>.

# Chapter 5 Other CEQA Considerations

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## 5.1 EFFECTS NOT FOUND TO BE SIGNIFICANT

Environmental issues presented under the Significance Criteria sub-section of all environmental topics in Chapter 4 of this EIR were derived from environmental issues and topics identified in Appendix G of the *CEQA Guidelines*. The only environmental issues in Appendix G not presented in Chapter 4 were those where the project either had no impact under all issues under an environmental topic because there are no physical changes proposed. They are as follows:

### AGRICULTURE AND FORESTRY RESOURCES

Based on criteria derived from Appendix G to the *CEQA Guidelines*, a project could have a significant impact on agriculture or forestry resources if the proposed project would:

- 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;
- Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined in Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g));
- Result in the loss of forest land or conversion of forest land to non-forest use; or
- 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.

The 10.3-acre project site is not in agricultural use and has no agricultural potential due to its small size, location surrounded by residential uses, steep slopes on the western and northern margins of the site, and currently developed condition. Therefore, the project would not adversely affect any existing agricultural resources or operations or conflict with a Williamson Act contract. Since the properties adjacent to the project site are developed with residential uses, the proposed project would not adversely affect other agricultural properties or result in the conversion of farmland to non-agricultural use. Since the site is zoned for residential use, the project would not conflict with or cause the rezoning of land designated for agricultural, forest land, or timberland uses. Since the site is currently developed and does not contain forest land, the project would not result in the loss of forest land or conversion of forest land to non-forest uses.

## MINERAL RESOURCES

Based on criteria derived from Appendix G to the *CEQA Guidelines*, a project could have a significant impact on mineral resources if the proposed project would:

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

The Los Gatos 2020 General Plan does not identify any state-wide, regionally, or locally important mineral resources on the project site or in its vicinity and there are no such known mineral resources. The proposed project would not remove any locally or regionally important mineral resources from production or preclude access to important mineral resources.

## POPULATION AND HOUSING

Based on criteria derived from Appendix G to the *CEQA Guidelines*, a project could have a significant impact on population or housing if the proposed project would:

- 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);
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

The proposed project would replace existing Convent facilities with up to 17 single-family dwellings. The project site presently supports 66 resident nuns who would relocate to retirement facilities in various locations within California. The proposed residential development would provide housing for approximately 41 persons. Consequently, the project would decrease the Town's population by approximately 25 residents. This reduction in population would represent a decrease in the Town's growth rate relative to ABAG's estimated one percent annual growth rate. Consequently, the change in population resulting from this residential development would be a less-than-significant effect on the Town's population. The project would be an "in-fill" development that replaces aging structures and infrastructure with current residential uses, including energy-efficient equipment and water-conserving fixtures. Road and infrastructure improvements would not extend to any undeveloped properties and thereby, not induce new development. The proposed designs for future residences would be subject to the Town's Architecture and Site (A&S) review process to ensure compliance with current standards and

guidelines for hillside development in the town and the preservation of private open space on the site. With the addition of 17 new housing units, the project's replacement of existing facilities would be a beneficial environmental impact overall.

The proposed project would include the voluntary relocation of 66 Sisters currently living on the site, but would allow approximately 41 people to reside on the site in the future. The net displacement of 25 people likely would not necessitate the construction of replacement housing elsewhere.

## **5.2 SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS**

Section 15126 (b) of the *CEQA Guidelines* requires that an EIR describe any significant impacts that cannot be avoided, even with the implementation of feasible mitigation measures. The environmental effects of the proposed project on various aspects of the environment are discussed in detail in Chapter 4 of this Draft EIR.

All significant and potentially significant impacts for the proposed project, if any exist, would be mitigated to a less-than-significant level with implementation of mitigation measures included in this EIR. Impacts relating to specific home designs on individual lots (i.e., any inconsistency with the Town's Tree Protection Ordinance or aesthetics) cannot be determined at this time. Potential tree preservation and removal for demolition, roads, utilities, conceptual development envelopes, and grading/drainage improvements as well as associated potential impacts were evaluated in the EIR. However, when individual lots are proposed to be developed in the future, they would be subject to Architecture and Site (A&S) review. During A&S review, any potential for such adverse effects from individual homes would be assessed and reviewed by the Town, and each home design would be required to comply with the Town codes/ordinances and consistency with the Town's General Plan policies and Hillside Development Standards and Guidelines would need to be demonstrated to ensure any identified potential adverse effects would be reduced to less than significant. There are no significant and unavoidable adverse impacts that would occur as the result of the proposed project.

## **5.3 GROWTH-INDUCING IMPACTS**

As required by Section 15126.2(d), an EIR must discuss ways in which a proposed project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment. The EIR must also discuss the characteristics of the project that could encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. Growth can be induced in a number of ways, such as through the elimination of obstacles to growth, through the stimulation of economic activity within the region, or through the establishment of policies or precedents that directly or indirectly encourage additional growth.

In general, a project may foster growth in a geographic area if the project removes an impediment to growth (e.g., the establishment of an essential public service, the provision of new access to an area, a

change in zoning or general plan approval); or economic expansion in response to the project (e.g., changes in revenue base, employment expansion etc.). These circumstances are further described below:

- **Elimination of Obstacles to Growth:** This refers to the extent to which a proposed project removes infrastructure limitations or provides infrastructure capacity, or removes regulatory constraints that could result in growth unforeseen at the time of project approval.
- **Economic Effects:** This refers to the extent to which a proposed project could cause increased activity in the local or regional economy. Economic effects can include such effects as the Multiplier Effect. A “multiplier” is an economic term used to describe inter-relationships among various sectors of the economy. The multiplier effect provides a quantitative description of the direct employment effect of a project, as well as indirect and induced employment growth. The multiplier effect acknowledges that the on-site employment and population growth of each project is not the complete picture of growth caused by the project. The project, which would allow the demolition and eventual construction of 17 houses, would not promote substantial economic growth because residents are unlikely to employ substantial numbers of workers.

With demolition of the existing convent facilities and development of 17 single-family residences, the proposed project would not induce any new net growth in the local population. The Association of Bay Area Governments (ABAG, 2009) estimates that Los Gatos’ population will increase to 30,000 by 2020 from its current population 28,810, an increase of 4 percent. This increase represents an annual growth rate of approximately 0.41 percent, which is a decrease from the Town’s one percent growth rate during the past three decades (Town of Los Gatos, 2010a). The proposed 17-unit project would replace 66 persons currently residing on the site with approximately 41 new residents, representing a 38% decrease in population for the site. This reduction in population would represent a less-than-significant growth-inducing impact to the Town’s population.

## 5.4 CUMULATIVE IMPACTS

*CEQA Guidelines* Section 15130 requires the analysis of cumulative impacts that may be associated with the proposed project when they are potentially significant. According to *CEQA Guidelines* Section 15355, “Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Project-specific impacts which are considered individually minor may be significant when combined with the environmental effects of other projects; significant cumulative impacts must be addressed, but not necessarily in “as great detail” as the discussion of project-related impacts.

The *CEQA Guidelines* provide that a lead agency may describe the cumulative environment by either: (1) a listing of pending, proposed, or reasonably anticipated projects, or (2) a summary of projections contained in an adopted general plan or a related planning document that describes area-wide or regional cumulative conditions. The geographic scope and method of the cumulative analysis varies by resource

area because the influence of cumulative impacts varies by resource. The geographic scope of the cumulative air quality analysis is regional (San Francisco Bay Area Air Basin), while the geographic scope of the cumulative energy resources analysis is state wide and cumulative greenhouse gas analysis is state wide and global. For analysis with large geographic scopes, the Plan Method is used. The cumulative impacts related to aesthetics, biological resources, geology/soils, hydrology/water quality, traffic, noise and vibration, hazards/hazardous materials, and cultural resources, are typically site-specific in nature and depend on conditions within the site vicinity. For these topics, the List Method offers the appropriate analysis method, but only those projects located in the project's immediate vicinity are included. For the evaluation of cumulative impacts on public services, utilities, and recreation, the geographic scopes vary with each service agency's service boundary, which is the Town of Los Gatos boundary in some cases, and the Plan Method was used.

When compared to existing (baseline) Convent operations on the project site, project implementation would result in a decrease in operational traffic and associated noise, air quality, and greenhouse gas emissions. In addition, the proposed residential project would result in a reduction in population, which also would result in a reduction in demand for all public services, utilities, service systems, and recreational facilities (except schools, which were found to be able to accommodate the students that the project would generate).

#### **LAND USE, PLANS, AND POLICIES**

The geographic scope of the cumulative land use analysis is the entire Los Gatos General Plan area because the General Plan ensures the orderly development of the town and its policies direct what type of development should occur in certain locations throughout the Town. For the purposes of this analysis, the project would not contribute to cumulative land use changes in the town. The 2020 General Plan Land Use Element designates the project site as Low Density Residential, 0-5 units per acre. Project implementation would convert the existing Convent facilities at the project site to single-family residential uses, returning land use on the project site to its original residential roots. The proposed density would be consistent with densities designated in the General Plan and Zoning Ordinance for this site. In addition, the proposed 17-unit project would replace 66 persons currently residing on the site with approximately 41 new residents, representing a 38% decrease in population for the site.

There are no other approved, proposed, or planned projects in the project site vicinity. Therefore, the project would not contribute to any cumulative land use changes in the project vicinity related to physically dividing an established community or conflicting with applicable plans, policies, and regulations (including the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan). Since the project would result in a decrease in residents at the site, the project would not contribute to any cumulative increases in residential growth in the community as projected in the 2020 General Plan (no impact).

**AESTHETICS**

The geographic scope of the cumulative analysis for aesthetics is limited to the public areas from which the proposed project is visible and where the project would have the potential to visibly change the existing visual character of the area. Since there are no other approved, proposed, or planned projects in the vicinity of the proposed project, the project would not contribute to any cumulative aesthetic impacts related to scenic vistas, scenic resources, visual character, or light/glare. Therefore, there would be no cumulative impacts related to aesthetics (no impact).

**BIOLOGICAL RESOURCES**

The geographic scope of the cumulative analysis for biological resources is the project site and the Los Gatos Creek corridor. Los Gatos Creek is located approximately 800 feet northwest of the site, and project implementation would not directly affect this creek or contribute to any direct cumulative impacts to biological resources on this creek (no impact). The project also would have less-than-significant impact on wildlife and fish habitats, sensitive natural communities, and trees (as it relates to the Los Gatos Tree Protection Ordinance. Therefore, the project's incremental contribution to any potentially significant cumulative impact on sensitive habitats and communities would not be cumulatively considerable (less than significant).

The project, however, would contribute to indirect cumulative impacts on the creek related to degradation of water quality; these impacts are discussed below under Hydrology and Water Quality. The project would also contribute to potentially significant cumulative impacts on special-status and migratory birds, special-status bats, special-status San Francisco dusky-foot woodrat. However, with implementation of Mitigation Measures 4.3-1 (Protection of Nesting Special-status and Migratory Birds), 4.3-2 (Protection of Roosting Bats), and 4.3-3 (Protection of San Francisco Dusky-footed Woodrat), the project's incremental contribution to these cumulative impacts would not be cumulatively considerable (less than significant).

**GEOLOGY, SOILS, AND SEISMICITY**

The geographic scope of potential cumulative geologic and seismic impacts encompasses the project site and its immediate vicinity. These types of impacts are generally site-specific and depend on local geologic and soil conditions. Since there are no other approved, proposed, or planned projects in the vicinity of the proposed project, the project would not contribute to any cumulative impacts related to seismic hazards, soil erosion, or soil instability and expansivity. Therefore, there would be no cumulative impacts related to on geology, soils, or seismicity (no impact).

**HYDROLOGY AND WATER QUALITY**

The geographic scope of potential cumulative hydrology and water quality impacts encompasses the Los Gatos Creek flood zone. The cumulative projects located within this watershed will be required to

implement stormwater Best Management Practices (BMPs) to treat water to State and regional standards to ensure that surface water pollutants will be treated before leaving those respective sites. With required implementation of BMPs in all cumulative projects, cumulative water quality impacts would be less than significant. The proposed project would not alter the existing drainage patterns of the project site and would provide sufficient on-site storage and runoff treatment to ensure that water quality and downstream flood hazards would not be significantly affected by project development. The proposed project would reduce the amount of impervious surfaces on the site and would treat stormwater runoff for pollutants before water is released to the creek. For these reasons, the project's contribution to cumulative water quality impacts would not be cumulatively considerable (less than significant).

While development of the cumulative projects could contribute to cumulative increases in peak flows in Los Gatos Creek, such increases would be less than significant because each project is required to control runoff from its site. The proposed project would not alter any floodway or substantially increase the risks of flooding on other upstream or downstream properties as a result of developing the site. For these reasons, the project's contribution to potentially significant cumulative impacts would be less than cumulatively considerable (less than significant).

#### **TRANSPORTATION AND TRAFFIC**

The geographic scope of potential cumulative traffic impacts includes the same local and regional roads that provide access to the project site. There could be cumulative construction-related traffic impacts on truck haul routes if construction of the proposed project occurred at the same time as construction of any other approved, proposed, or planned projects. The timing of future demolition, road construction, and lot development on the project site is unknown at this time, but the Town will require, as a condition of project approval, that a Traffic and Safety Control Plan be prepared by the project applicant and that other construction projects occurring at that time must be considered.

Project implementation would decrease the number of operational daily and peak period trips generated at the site. Therefore, the project would not contribute to any cumulative increases in traffic and related cumulative impacts on roads, intersections, or freeways (no impact).

#### **NOISE AND VIBRATION**

The geographic scope of potential cumulative noise impacts encompasses the project site and its immediate vicinity as well as areas adjacent to access and haul routes associated with project construction. There could be cumulative construction-related traffic noise impacts if the project's construction-related haul trucks traveled on local roadways at the same time any other approved, proposed, or planned projects in the vicinity. The timing of future demolition, road construction, and lot development on the project site is unknown at this time, and therefore the potential for such a cumulative increase cannot be determined at this time. However, construction activities (including trucking operations) for both this project and any other projects would be subject to time and noise limits specified

in the Town Noise Ordinance. Such limits combined with required a Traffic and Safety Control Plan that takes into consideration other construction projects occurring at that time would reduce the project's contribution to cumulative construction-related noise impacts on local roadways in the project vicinity to less than cumulatively considerable (less than significant).

Project implementation would decrease traffic levels associated with operation of facilities on the project site and this would result in a decrease in site-related traffic noise on local roadways. Therefore, the project would not contribute to any cumulative increases in traffic noise on local roadways (no impact).

### **AIR QUALITY**

The geographic scope of the cumulative air quality analysis is the entire San Francisco Bay Area Air Basin since project-related air pollutant emissions would have the potential to affect local as well as regional air quality. Because project-related criteria air pollutant emissions would affect regional air quality (i.e., the San Francisco Bay Area Air Basin), evaluation of cumulative impacts is not based on adding emissions from all reasonably foreseeable projects (which would not be feasible on a regional basis for criteria air pollutants). The significance thresholds presented in Section 4.8, Air Quality, are based on individual project thresholds that determine whether the project would result in a cumulatively considerable contribution to a significant cumulative impact on criteria air pollutant emissions on a regional basis.

The nature of air emissions is largely a cumulative impact. As a result, no single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to cumulatively significant adverse air quality impacts. The construction-related and operational thresholds of significance presented in Section 4.8 are based on the level above which a project's individual emissions would result in a cumulatively considerable contribution to the SFBAAB's existing air quality conditions. Therefore, if a project's emissions exceed this EIR's construction-related or operational thresholds, then the project's impact would be a cumulatively considerable contributor to a significant cumulative impact. As indicated in Tables 4.8-3 and 4.8-4 in Section 4.8, the proposed project's construction-related and operational emissions as well as health risks would not exceed any applicable significance thresholds. Therefore, the operational emissions would be less than cumulatively considerable (less than significant).

### **GREENHOUSE GASES**

The geographic scope of the cumulative greenhouse gas analysis is considered on both a state-wide basis (policy consistency) and globally (GHG emissions) since the resulting climate change effects are global. Because GHG emissions affect global climate change, evaluation of cumulative impacts is not based on adding emissions from all reasonably foreseeable projects (which would not be feasible on a global basis for GHGs). The Town has used significance thresholds originally established by BAAQMD for individual projects that determine whether the project would result in cumulatively considerable GHG

emissions to analyze the project's greenhouse gas impact in this EIR. As demonstrated in Table 4.9-1 in Section 4.0, Greenhouse Gases, the project's GHG emissions would not exceed the EIR's significance threshold of 1,100 MT CO<sub>2</sub>e/year, indicating the project's contribution to significant GHG emissions would not be cumulatively considerable.

The Town adopted a Sustainability Plan in October 2012 to reduce GHG emissions within the Town limits. As explained in Section 4.5, Greenhouse Gases, compliance with the current requirements of the Sustainability Plan is not sufficient by itself at this time to support a determination that a project's greenhouse gas emissions are less than significant by definition, because the Plan will not be fully implemented until the Town Council takes a number of future steps, such as adopting a Green Building Ordinance and GreenPoint Rated Building Guidelines. However, the project would be consistent with the applicable goals and policies of the Sustainability Plan as they currently exist. For this reason and since the project's GHG emissions would not exceed the EIR's significance threshold of 1,100 MT CO<sub>2</sub>e/year, the project is not considered to conflict with the Town's Sustainability Plan. Therefore, the project's GHG contributions would not be cumulatively considerable (less than significant).

#### **HAZARDS AND HAZARDOUS MATERIALS**

The geographic scope of impacts associated with hazards and hazardous materials encompasses the project site and its vicinity. Due to the site-specific nature of hazardous materials impacts, there would be no potential for cumulative effects of hazards or hazardous materials from construction or operation of the proposed project. In addition, there are no other proposed or approved projects in the project site vicinity. Therefore, no local or regional cumulative effects related to the exposure to hazardous materials during construction or operation of the proposed project would occur (no impact).

#### **CULTURAL RESOURCES**

The geographic scope of potential cumulative impacts on cultural resources encompasses the project site and its vicinity. There would be a potential for cumulative impacts on cultural resources to occur with implementation of the proposed project in conjunction with any other proposed or approved projects in the vicinity. Since there are no other proposed or approved projects in the project site vicinity, the project would not contribute to any cumulative impacts related to historic, archaeological, or paleontological resources. Therefore, there would be no cumulative impacts related to cultural resources (no impact).

#### **PUBLIC SERVICES, UTILITIES, AND SERVICE SYSTEMS**

The geographic scope of the cumulative public services and utilities analysis consists of the service areas of the various service agencies. While the development of a project could have the potential to contribute incrementally to cumulative effects on the demand for public services and utilities as a result of future growth in the community, the proposed project would reduce the population occupying the project site and result in a reduction in the demand for public services and utilities. For these reasons, the project

would not incrementally increase the demand on public services, utilities, and service systems and would not contribute to any cumulative impacts on public services, utilities, and service systems (no impact).

Based upon population growth estimates identified by the 2020 General Plan, the project would add approximately four new students to the Los Gatos Union School District and three new students to the Los Gatos-Saratoga High School District. Students generated by the proposed project would contribute to the cumulative demand for educational services and result in enrollments that could exceed district capacities, depending the timing demolition, road construction, individual home construction and occupancy of residences. As part of this assessment of impacts on the community's educational services, the analysis of new development identified specific properties and projects that would contribute to increased student enrollment in local school districts. The General Plan and its EIR included the residential development of the Convent site as part of the assumed growth that would occur in the town through 2020.

In addition to the goals, policies and actions in the Draft 2020 General Plan, future development within the planning area would be required by law to pay development impact fees to each school district at the time of the building permit issuance. These fees are used by the school districts to mitigate impacts associated with long-term operation and maintenance of school facilities with new development in accordance with State law. Pursuant to Section 65996(3)(h) of the California Government Code, payment of these fees "is deemed to be full and complete mitigation of impacts of any legislative or adjudicative act, or both, involving but not limited to, the planning, use, or development of real property, or any change in government organization or reorganization." Any secondary environmental impacts resulting from the construction of new schools would be analyzed by each School District prior to construction of any new schools. Therefore, with payment of development impact fees to each school district as required by law, the project's impact on the schools attended by project students would be less than significant and its incremental contribution to cumulative impacts on these schools and the school districts overall would not be cumulatively considerable (less than significant).

## **RECREATION**

The geographic scope of the cumulative recreation analysis is the town boundary since each community typically provides recreational facilities for its population. The EIR for the 2020 General Plan determined that existing parks were adequate to meet existing and future (with growth anticipated by the General Plan) demand for recreational facilities, based on Quimby Act standards. As such, no significant cumulative impact on recreational facilities would occur. Furthermore, the project would result in a decrease in the community's population and, therefore, would not contribute to any cumulative increases in demand for recreational facilities. The project would not result in the physical deterioration of existing recreational facilities or require the addition of new parks beyond those identified in the General Plan and associated EIR (no impact).

## ENERGY RESOURCES

The geographic scope of the cumulative energy resources analysis is considered to be the Pacific Gas & Electric (PG&E) service area and state-wide, since cumulative increases in energy demand would affect both the local power transmission facilities and state-wide power grid. The 2020 General Plan EIR considered cumulative impacts with regard to electricity and natural gas consumption (page 4.14-36 of the 2020 General Plan EIR) and concluded that these impacts would be mitigated to a less-than-significant level by implementing the 2020 General Plan goals, policies, and actions. The Environment and Sustainability Element of the 2020 General Plan provides an evaluation of energy consumption issues and includes goals and policies promoting reduction in the use of non-renewable energy and conservation of energy consumption. This is further defined in the Town's recently adopted Sustainability Plan.

Section 4.15, Energy Conservation, evaluates the project's energy requirements relative to existing energy usage on the site. The proposed project would require less energy than existing site facilities for permanent operation, and therefore the project would not contribute to any cumulative increase on energy resources (no impact).

## 5.5 ALTERNATIVES

CEQA Section 15126.6(a) requires that an EIR describe "a range of reasonable alternatives to the project, or to the location of any project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives that are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no iron-clad rule governing the nature or scope of the alternatives to be discussed, other than the rule of reason."

Section 15126.6(b) states, "because an EIR must identify ways to mitigate or avoid the significant effect that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project even if these alternatives would impede, to some degree, the attainment of the project objectives, or would be more costly."

Section 15126.6(c) describes the selection process for a range of reasonable alternatives as, "the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed."

Section 15126.6(e) requires the analysis of a No Project Alternative. The analysis must discuss the existing condition, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved. The No Project Alternative is the circumstance under which the project does not proceed and wherein the existing environmental setting is maintained. The analysis also must discuss the environmental effects resulting from what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on the existing CUP conditions. If the Environmentally Superior Alternative is the No Project Alternative, the EIR shall also identify an Environmentally Superior Alternative among the other alternatives (CEQA Section 15126.6(e)(2)).

### SUMMARY OF POTENTIALLY SIGNIFICANT IMPACTS

The EIR identifies the following potentially significant impacts, none of which is significant and unavoidable:

- **Biological Resources:** Project demolition and construction activities could result in direct mortalities of and indirect disturbances to nesting special-status and other migratory birds, special-status bats, and the special-status San Francisco dusky-footed woodrat, which could occur on-site.
- **Geology, Soils, and Seismicity.** Future homes on project lots, like all existing development in the project vicinity, could be subject to damage due to strong ground shaking. Additional impacts associated with development of future homes on some lots include loss of topsoil, slope instability hazards, and expansive soils.
- **Hydrology and Water Quality.** Although existing development is already a non-point source of water quality degradation, future residences would also be new non-point sources of such degradation.
- **Noise and Vibration:** Project demolition and construction activities would result in temporary increases in noise and vibration at adjacent residences due to operation of heavy equipment during construction.
- **Air Quality:** During project demolition and construction activities, diesel particulate emissions from diesel-powered equipment would temporarily increase health risks for adjacent residences.
- **Cultural Resources:** Demolition and construction activities on the project site could adversely affect any unknown subsurface archaeological or paleontological resources.

All of the above impacts could be mitigated to a less-than-significant level with recommended mitigation measures.

Of the above impacts, those related to biological resources, noise, vibration, air quality, and cultural resources would occur during the project's demolition and construction phase only. Geotechnical constraints would relate to individual home designs and water quality impacts would be addressed by provision of on-site and/or off-site self-retaining treatment areas (pursuant to C.3 requirements). All of

these impacts could be reduced to a less-than-significant level with implementation of mitigation measures included in this EIR. Construction-related mitigation measures specified in this EIR would include implementation of protective measures for special-status species, use of noise and air pollutant emissions controls on construction equipment, and archaeological and paleontological monitoring during demolition as well as construction related water quality measures.

Additional impacts identified in the EIR related to tree removal/loss, short-term increases in construction-related traffic on local roads, and impacts on schools would be mitigated by regulations or conditions of project approval. Implementation of a Traffic and Safety Control Plan (required as a condition of project approval) and conformance with the Town's Tree Protection Ordinance (including implementation of tree replacement/protection measures specified by the Town's consulting arborist, which is also required as a condition of project approval) would reduce traffic and tree impacts to less than significant. Conformance with state regulations regarding schools (payment of fees pursuant to Section 65996(3)(h) of the California Government Code) would reduce this impact to less than significant.

The Town will evaluate each individual residence during the Architecture and Site review process to analyze design, landscape plans, water quality/C.3 conformance, geotechnical hazards, and fire hazards that cannot be specifically evaluated until home designs are proposed on the individual lots. Such impacts (including conformance with some measures in the Town's Hillside Development Standards and Guidelines) relate to individual home designs and these impacts will be evaluated as part of the Architecture and Site review process when each lot is proposed for development.

Project implementation would result in beneficial impacts related to water quality since there would be a reduction in impervious surfaces and construction of non-point source water quality protection measures (C.3), which do not currently exist on-site would be installed as part of project development. Also, the project would result in a reduction in traffic and population on the site, along with associated reductions in traffic-related noise and air quality emissions as well as reductions in demand for public services and utilities (including energy and related greenhouse gas emissions). In addition, the proposed residential use would be more compatible with the surrounding neighborhood than the existing institutional facility, which operates 24 hours per day, 7 days per week year-round.

The alternatives presented below include the CEQA-required No Project Alternative, Residential Care Facility Alternative, Reduced Density Alternative, and Modified Design Alternative. As required by CEQA, the Environmentally Superior Alternative is also identified below.

## **PROJECT OBJECTIVES**

The principal project objectives are presented in Chapter 3, Project Description, and reiterated here for reference:

1. Create a residential subdivision that is consistent with the uses and scale of development in the surrounding neighborhood.

2. Create a project that is consistent with the Subdivision Map Act, the site's General Plan designation of "Low Density Residential" and the site's Zoning Code designation and size, setback and other requirements of "R-1:20," returning the site to its residential roots.
3. Allow construction of 17 single-family homes on the project site that are sized similar to those in the surrounding area.
4. Redevelop the site, while maintaining its natural topography and landscaping (or enhancing landscaping) to the extent feasible.
5. Create a project that does not substantially increase traffic in the surrounding residential neighborhood.
6. Create a project that will maximize the funding available for current and future skilled care, assisted living, home health and other medical care for all of the Sisters who are part of the State of California, Sisters of the Holy Names of Jesus and Mary.
7. Create a project that enables the Sisters to acquire quality off-site health care and housing services to meet their moral and ethical obligation and responsibility to each other.

### **5.5.1 NO PROJECT ALTERNATIVE**

Under the No Project Alternative, the proposed project would not be developed and the environmental impacts identified in this report (summarized above) would be avoided. This alternative would avoid the above short-term impacts related to proposed demolition and construction activities. However, at the same time, the long-term beneficial impacts identified above would not occur.

The existing facility would continue to operate as it currently operates today (24 hours per day, 7 days per week year-round). However, the Sisters have indicated that the existing facility is not sustainable because the aging population of Sisters has required on-site facilities to be upgraded in order to provide adequate healthcare and eldercare services. Therefore, it is reasonable to expect that continued operation of this facility by the Sisters or at its current level is not likely to occur. If the Sisters were to relocate, as proposed, to other assisted living and skilled nursing care facilities in the area and vacate on-site facilities, the sale of the property with existing Conditional Use Permit would allow site facilities to continue to operate in the same manner (as a retreat residential and care facility, and religious facility), but for a property owner (i.e. different organization). Since the existing facility can accommodate up to 140 residents, but there are only 66 Sisters, any change in ownership or operator at this facility could result in an increase in the number of residents, staff and uses when compared to today's condition. While this increase in residents is allowed under the existing Conditional Use Permit, it could increase traffic levels in the neighborhood (and associated noise and air emissions increases) as well as increase demand for public services and utilities when compared to existing (baseline) conditions. Even so, such increases and reductions would occur under this alternative, these changes would be less than significant since they are allowed under the existing Conditional Use Permit and part of the existing (baseline) condition.

With continued operation of existing facilities by the Sisters unlikely, most of the above-listed project objectives would not be met. Under the No Project Alternative, the need for updated facilities would continue to persist and interior remodeling by any operator, including the Sisters, would be required at a minimum (which would not necessarily be subject to environmental review). There could also be a requirement for additional facilities on-site. In addition, with continued pressure for more housing in the region, it is likely that future proposals involving redevelopment of this project would be likely. With any future redevelopment, adjacent residents would be subject to short-term traffic and noise increases associated with any future remodeling work.

For these reasons, the No Project Alternative has the potential to result in greater environmental impacts overall (when compared to existing conditions), than the proposed project, Residential Care Facility Alternative, Reduced Density Alternative, and Modified Design Alternative.

### **5.5.2 RESIDENTIAL CARE FACILITY ALTERNATIVE**

The Sisters spent the past two years focusing on and planning for future care and housing needs for the Sisters and evaluating options for continued operation of facilities on the site, either through remodeling the existing buildings or partnering with another organization to provide needed senior care and residential facilities on-site.

Due to the age and the type of building construction, remodeling existing facilities to current standards would require extensive exterior and interior improvements and would not be financially feasible due to high costs and insufficient square footage. Adjacent residents and residents living along access routes would also be subject to construction-related traffic, noise, and air quality increases during the renovation process.

In order to provide affordable care and affordable housing for the Sisters and the public, partner organizations determined that the only economically viable options would require increase density (substantial increases in building square footage and the number of residential units) on the 10.3-acre project site. These options would result in traffic increases on neighborhood streets and changes to the neighborhood character from increased development intensity on the site. Since this alternative would increase impacts on the surrounding neighborhood, it would not “avoid or substantially lessen one or more of the significant impacts” as required by CEQA Section 15126.6(c). Therefore, this alternative was eliminated from further consideration.

### **5.5.3 REDUCED DENSITY ALTERNATIVE**

The existing General Plan and Zoning Designation for the site would allow for up to 21 single-family homes on the site. The project proposes 17 single-family lots. The Reduced Density Alternative would result in the same proposed demolition activities and similar future development of the project site except that one lot (#17) would be eliminated. Elimination of this lot would result in the enlargement of adjacent and nearby Lots #14 through #16. Presumably larger houses could be accommodated on these enlarged

lots. This alternative would reduce short-term construction-related noise and vibration impacts at the adjacent residence (88 Prospect Avenue), although it would not avoid these impacts entirely because demolition of the existing tennis court, which is when construction equipment would operate in closest proximity to this existing residence, would still occur. All other aspects of the Reduced Density Alternative would be the same as the proposed project.

This alternative would meet five of the seven principal project objectives related to development of a residential project (#1 through #5 listed above), but a smaller project would not necessarily meet the last two objectives, which is to provide the maximum funding possible for future living and healthcare expenses of the Sisters and to meet the Sisters' moral and ethical obligations to one another. Financial feasibility of this alternative is unknown.

Since this alternative would be essentially the same as the proposed project (except that three instead of four lots would be developed at the north end of Prospect Avenue), most of the impacts under this alternative would be the same as the proposed project and all mitigation measures required for the project, which result in already less-than-significant impacts like the proposed project, would also be required under this alternative. Adjacent residents would be subject to the same short-term traffic, noise, vibration, and air quality impacts associated with demolition of existing facilities (including demolition-related noise and vibration impacts at the adjacent residence at 88 Prospect Avenue). In addition, the same potential construction-related impacts on special-status species as well as unknown subsurface archaeological and paleontological resources would still occur under this alternative.

While all impacts has already been reduced to a less-than-significant level, this alternative would decrease the following project-related impacts slightly:

- If the future home on the enlarged Lot 16 were located away from the northern terminus of Prospect Avenue, there would be one less house visible from the street. However, future project homes would be visible along the entire site frontage just as existing homes on the east side of Prospect Avenue and the existing Regional Office on-site are visible. The EIR determined that the proposed project would not substantially degrade the visual character or quality in the site vicinity, and developing one less house along the site frontage would decrease this already less-than-significant impact.
- Short-term construction noise, vibration, and air quality impacts associated with home construction could be slightly less with one less house to build. The home on the reconfigured Lot 16 *could* be located farther from the existing residence at 88 Prospect Avenue. However, it should be noted that the Town's sideyard setback requirements that would apply to the proposed Lot 17 would still apply to the enlarged Lot. Therefore, the future home on enlarged Lot 16 under this alternative could still be located as close to the existing adjacent residence as the future home on the currently proposed Lot 17. Under these circumstances, construction noise levels could be the same as under the proposed project. This impact would be determined when specific development

plans for this lot are proposed and reviewed as part of the Architecture and Site review process. Operational noise levels under this alternative would be less than significant, similar to the proposed project.

- There are six trees on proposed Lot 17 that could require removal for future home development, and these trees may not need to be removed under this alternative. However, the amount of tree removal is ultimately contingent on the home designs on Lots #14 through #16, since these larger lots could presumably accommodate larger houses. Table 5-1 indicates that tree removal impacts would be less than significant for the project and they would also be less than significant under this alternative.
- The project would generate fewer daily and peak period trips than the existing on-site operations. Therefore, this alternative would result in a slightly greater reduction in trips generated at the project site, which would in turn also result in slightly greater reductions in traffic-related noise, air pollutant and greenhouse gas emissions. These impacts were determined to be less than significant under the proposed project, and these impacts would be slightly less under this alternative.

All of these impact reductions would affect impacts that were determined to be less than significant or less than significant with mitigation under the proposed project. Although the beneficial impacts associated with trip generation would be incrementally greater under this alternative, the significance determination of these impacts would not change, mitigation measures specified in this EIR would still be required under this alternative, and this alternative would not substantially reduce identified impacts.

#### **5.5.4 MITIGATED PROJECT ALTERNATIVE**

This alternative would consist of the proposed project, but with all mitigation measures specified in this EIR incorporated into project plans. With inclusion of all specified mitigation measures, all impacts under this alternative would be less than significant. Since all identified impacts would be mitigated to less than significant, the impacts under this alternative would be less than the proposed project, as indicated in Table 5-1 at the end of this chapter. Incorporation of all mitigation measures would not change the proposed project. Therefore, this alternative would meet all seven of the project objectives.

All of the impacts identified for the project were determined to be less than significant or less than significant with mitigation measures specified in this EIR. Under this alternative, all identified impacts under the project would be substantially reduced by specified mitigation measures and therefore, all impacts would be less than significant.

#### **5.5.5 ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

An EIR is required to identify the Environmentally Superior Alternative from a range of reasonable and feasible alternatives evaluated in the EIR [Section 15126.6 (e) (2)]. If the Environmentally Superior Alternative is the “No Project” Alternative, the EIR shall also identify an Environmentally Superior

Alternative among the other alternatives. The Environmentally Superior Alternative would be the alternative that results in fewer environmental impacts.

The preceding discussion compares the impacts of these alternatives with the proposed project and a tabular comparison summary is presented in **Table 5-1**. The No Project Alternative would avoid demolition/construction-related impacts, but would have greater traffic and associated noise and air quality impacts. The Residential Care Facility Alternative would result in greater impacts than the proposed project without mitigation. Of the two remaining alternatives, both would have fewer impacts than the proposed project. However, all of the mitigation measures specified in this EIR would have to be required under the proposed project or the Reduced Density Alternative, while the Mitigated Project Alternative already includes all of the EIR mitigation measures.

When compared to the proposed project, the Reduced Density Alternative could reduce the significant short-term noise impact on the existing residence at 88 Prospect Avenue, and slightly reduce other already less-than-significant impacts related to aesthetics and compliance with the Town's Tree Protection Ordinance. In addition, the beneficial traffic impacts and associated noise, air quality, and greenhouse gas impacts under Reduced Density Alternative would be slightly greater. Although the proposed project could reduce these impacts to less than significant with mitigation measures specified in this EIR or these impacts were identified as less than significant in the EIR, the Reduced Density Alternative could be considered to be the Environmentally Superior Alternative. However, this alternative would not meet two of the principal project objectives (provide the maximum funding possible for Sisters' housing and care to enable the Sisters to meet their moral and ethical obligation to one another), and financial feasibility of this alternative is unknown.

The deciding body has the authority to approve the proposed project over the Environmentally Superior Alternative if the body finds that the mitigation measures recommended for the project will be adopted and will reduce the potentially significant impacts to less-than-significant levels. As noted above, all potentially significant impacts associated with the proposed project could be reduced to less than significant with the adoption of recommended mitigation measures.

#### **REFERENCES – CEQA CONSIDERATIONS**

Town of Los Gatos, 2010a. *Town of Los Gatos 2020 General Plan*, September 20. Available online at <http://www.losgatosca.gov/index.aspx?NID=27>.

Town of Los Gatos, 2010b. *Town of Los Gatos 2020 General Plan Final Environmental Impact Report*. June 16. Available online at <http://www.lggeneralplanupdate.org/content/los-gatos-final-environmental-impact-report-final-eir>.

**TABLE 5-1  
SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Intensity	Mitigated Project
Meets Principal Project Objectives?	Yes	Not Applicable	No	No	Yes
<i>Land Use</i>					
4.1-1: The project would not physically divide an established community.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.1-2: The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
<i>Aesthetics</i>					
4.2-1: The project would not substantially affect scenic vistas.	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)
4.2-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	Less Than Significant	None Required	= (LS)	= (LS)	= (LS)
4.2-3: The project would not substantially degrade the visual character or quality of the site and its surroundings.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
<i>Biological Resources</i>					
4.3-1: Project development could have a substantial adverse effect, either directly or through habitat modification, to nesting special-status and other migratory birds identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.	Less Than Significant With Mitigation	4.3-1, Protection of Nesting Special-status and Migratory Birds	< (LS)	= (LSM, Same Mitigation Required)	< (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.3-2: Project development could have a substantial adverse effect, either directly or through habitat modification, to special-status bats, identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.	Less Than Significant With Mitigation	4.3-2, Protection of Roosting Bats	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.3-3: Project development could have a substantial adverse effect, either directly or through habitat modification, to the special-status species San Francisco dusky-footed woodrat.	Less Than Significant With Mitigation	4.3-3, Protection of San Francisco Dusky-footed Woodrat	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.3-4: Project development would not substantially reduce the habitat of any wildlife species, cause any wildlife populations to drop below self-sustaining levels, threaten to eliminate a plant or animal community or substantially reduce the number or restrict the range of rare or endangered plant or animal species through the loss or fragmentation of habitats.	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)
4.3-5: Project implementation would not impact oak woodland habitat, a sensitive natural community identified in the General Plan.	Less Than Significant	None Required	= (LS)	= (LS)	= (LS)
4.3-6: Project implementation would result in the removal of or adverse impacts on as many as 94 Protected trees on the project site, but	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.					
4.3-7: Project development would not result in a substantial reduction of habitat for fish or wildlife species.	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)
4.3-8: Project development would not substantially interfere with the movement of any native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)
<i>Geology and Soils</i>					
4.4-1: The proposed project could result in exposure of people and structures to potential adverse effects, including risk of loss, injury, or death involving strong ground shaking or landslides.	Less Than Significant With Mitigation	4.4-1, Design-Level Geotechnical Investigation	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.4-2: The proposed project could result in substantial erosion, but could result in loss of topsoil.	Less Than Significant With Mitigation	4.4-2, Top Soil Salvage	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.4-3: The proposed project could cause a geologic unit to become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Less Than Significant With Mitigation	4.4-3: Mitigation Measure 4.4-1	< (LS)	= (LSM, Same Mitigation Required)	< (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.4-4: The proposed project would be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code and could create a risk to life and/or property.	Less Than Significant With Mitigation	4.4-3: Mitigation Measure 4.4-1	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
<i>Hydrology and Water Quality</i>					
4.5-1: The proposed project would not violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.5-2: The proposed project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.5-3: Project implementation would not substantially alter the existing drainage pattern of the site or area by altering the course of a stream or incrementally increasing surface runoff from impervious surfaces in such a manner that could result in substantial erosion, siltation, or flooding on- or off-site.	No Impact	None Required	= (LS)	= (LS)	= (LS)
4.5-4: Project implementation would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or introduce new sources of polluted runoff.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
<i>Transportation and Traffic</i>					
4.6-1: The project would not 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.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.6-2: The project would not conflict with the Santa Clara County Congestion Management Program.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.6-3: The project would not substantially increase hazards due to a design feature or incompatible uses.	Less Than Significant	None Required	> (LS)	= (LS)	= (LS)
4.6-4: The project would not result in inadequate emergency access.	Less Than Significant	None Required	= (LS)	= (LS)	= (LS)
4.6-5: The project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	Less Than Significant Less Than Significant	None Required	Less Than Significant	=	=
		None Required			
<i>Noise</i>					
4.7-1: Project construction could cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity	Less Than Significant With Mitigation	4.7-1, Administrative and Source Controls to reduce construction equipment noise	< (LS)	= (LSM, Same)	< (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
above levels existing without the project due to operation of heavy equipment during construction.				Mitigation Required)	
4.7-2: Project construction could expose people to or generate excessive groundborne vibration at adjacent structures during construction.	Less Than Significant With Mitigation	4.7-2, Vibration Limits	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.7-3: Occupation of proposed residences would not result in a substantial permanent increase in ambient noise levels in the project site vicinity or along local roadways, above levels existing without the project, including noise from existing convent-related activities already on-site.	Less Than Significant	None Required	< (LS)	= (LS)	= (LS)
4.7-4: The project could expose people to or generate noise levels in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies.	Less Than Significant With Mitigation	4.7-4, Noise Attenuation Measures for homes on 4 lots	< (LS)	< (LSM, Same Mitigation Required)	< (LS)
<i>Air Quality</i>					
4.8-1: Project-related criteria pollutant emissions would not conflict with or obstruct implementation of the applicable Air Quality Plan.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)
4.8-2: Project construction could violate an air quality standard or contribute substantially to an existing or projected air quality violation.	Less Than Significant With Mitigation	4.8-2 BAAQMD Basic Construction Mitigation Measures	< (LS)	< (LSM, Same Mitigation Required)	< (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.8-3: Project operations would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.	Less Than Significant	None Required	> (LS)	< (LS)	< (LS)
4.8-4: Project implementation could expose sensitive receptors to substantial pollutant concentrations.	Less Than Significant With Mitigation	4.8-4: Emission Reduction Measures	< (LS)	< (LSM, Same Mitigation Required)	< (LS)
4.8-5: Project implementation would not create objectionable odors affecting a substantial number of people because they would be temporary and would not affect a substantial number of people.	Less Than Significant	None Required	< (LS)	≤ (LS)	≤ (LS)
<i>Greenhouse Gases</i>					
4.9-1: The project would not generate greenhouse gas emissions, either directly or indirectly, that would not have a significant impact on the environment.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)
4.9-2: The project would not conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing greenhouse gas emissions.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
<i>Hazards and Hazardous Materials</i>					
4.10-1: The proposed project could result in a significant hazard to the public or the environment through the routine use and disposal of household hazardous wastes.	Less Than Significant With Mitigation	4.10-1, Implement Buyer Education Program for Household Hazardous Waste	> (LS)	< (LSM, Same Mitigation Required)	< (LS)
4.10-2: The project could create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials to the environment during building demolition.	Less Than Significant With Mitigation	4.10-2, Hazardous Building Materials Surveys and Abatement	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.10-3: The project could create a hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment during soil excavation and subsequent site use.	Less Than Significant With Mitigation	4.10-3, Corrective Action	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.10-4: P The project would not to 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.	Less Than Significant	None Required	< (LS)	< (LS)	= (LS)
<i>Cultural Resources</i>					
4.11-1: Project implementation would not affect any historical resource as defined in CEQA Guidelines Section 15064.5.	No Impact	None Required	< (LS)	= (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.11-2: Demolition and construction activities on the project site could cause a substantial adverse change in the significance of unknown subsurface archaeological resources including disturbance of human remains.	Less Than Significant With Mitigation	4.11-2, Archaeological Monitor and Identification of Eligible Resources	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
4.11-3: Demolition and construction activities on the project site could directly or indirectly destroy a unique paleontological resource or site or unique geological feature.	Less Than Significant With Mitigation	4.11-3, Halt Construction and Evaluate Resource	< (LS)	= (LSM, Same Mitigation Required)	< (LS)
<i>Public Services and Utilities</i>					
4.12-1: Redevelopment of the project site with new single-family residential uses would require continued fire protection services for future residents, visitors, and property improvements, as has been required for existing uses on the site; new or physically altered governmental facilities would not be required to provide adequate fire and emergency medical protection services for the proposed project.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)
4.12-2: The proposed residential use would require police protection services for future residents, visitors, and property improvements, as has been required for existing uses on the site; the project would not result in substantial adverse physical impacts associated with the provision of new or physically altered police facilities.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.12-3: The proposed residential project would generate new students, but would not contribute substantially to the cumulative increase in demand for educational services within the service area of the Los Gatos Union School District and the Los Gatos-Saratoga Union High School District and would not result in substantial adverse impacts associated with the provision of new or physically altered facilities.	Less Than Significant	None Required	< (LS)	< (LS)	= (LS)
4.12-4: The proposed project would not incrementally increase water demand within the service area of the San Jose Water Company and would not require or result in the construction of new water facilities or expansion of existing facilities; sufficient water supplies are available to serve the project from existing entitlements and resources.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)
4.12-5: The project site currently generates wastewater flows requiring collection and treatment by West Valley Sanitary District Facilities; construction of the proposed residential use would require continued wastewater services and District facilities have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	Less Than Significant	None Required	< (LS)	< (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

Potential Impact	Proposed Project Impact Significance	Mitigation Measure	Impact Similar but Greater than (>), Less than (<), Less than or Equal to (≤), or Same (=) as Proposed Project		
			No Project	Reduced Density	Mitigated Project
4.12-6: Demolition of structures on the project site would generate extensive amounts of solid waste. Development of proposed single-family residential use would result in the generation of solid wastes requiring recycling and/or disposal at local landfill sites, in compliance with federal, state, and local statutes and regulations related to solid waste.	Less Than Significant	None Required	< (LS)	< (LS)	= (LS)
<i>Recreation</i>					
4.13-1: Development of the proposed project would not increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)
4.13-2: Development of the proposed project would not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.	Less Than Significant	None Required	= (LS)	= (LS)	= (LS)
<i>Energy</i>					
4.14-1: Demolition of existing buildings and construction of the new residential uses would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner.	Less Than Significant With Mitigation	4.14-1: Mitigation Measure 4.8-2	< (LS)	< (LS)	= (LS)

**TABLE 5-1 (CONTINUED)**  
**SUMMARY COMPARISON OF PROJECT ALTERNATIVES**

<b>Potential Impact</b>	<b>Proposed Project Impact Significance</b>	<b>Mitigation Measure</b>	<b>Impact Similar but Greater than (&gt;), Less than (&lt;), Less than or Equal to (≤), or Same (=) as Proposed Project</b>		
			<b>No Project</b>	<b>Reduced Density</b>	<b>Mitigated Project</b>
44.14-2: Operation of residences would not encourage activities that use fuel, water, or energy in a wasteful, inefficient, or unnecessary manner.	Less Than Significant	None Required	> (LS)	< (LS)	= (LS)

# CHAPTER 6 LEAD AGENCY AND CONSULTANTS

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## LEAD AGENCY

### TOWN OF LOS GATOS

Suzanne Avila, Senior Planner, Community Development Department

Kevin Rohani, Town Engineer/Assistant Director, Parks and Public Works Department

Jessy Pu, Traffic Engineer Parks and Public Works Department

Trang Tu-Nguyen, Associate Civil Engineer

## TOWN CONSULTANTS

**AMEC ENVIRONMENT & INFRASTRUCTURE** Geotechnical Peer Review

**ARBOR RESOURCES** Arborist Peer Review

**EISENBERG, OLIVIERI & ASSOCIATES** Stormwater Management Peer Review

### GEIER & GEIER CONSULTING, INC.

Valerie Chew Geier

Project Manager, Land Use, Noise Peer Review

Frederick Geier

Aesthetics, Public Services, Recreation, Energy

Hans Giroux

Air Quality and GHG Peer Review

Mary Lucas McDonald

Geology, Hydrology, Hazards

Manfred Geier

Graphics

### GGC Subconsultants

Wood Biological Consulting, Inc.

Biological Resources

Holman & Associates

Cultural Resources

**TJKM TRANSPORTATION CONSULTANTS** Traffic Impact Analysis Peer Review

## APPLICANT'S TECHNICAL CONSULTANTS

The applicant retained the following consultants to complete technical studies that were peer reviewed by Town consultants and included in this report:

**ARCHIVES & ARCHITECTURE, LLC** Historical Resources Evaluation

**BARRY D. COATE AND ASSOCIATES** Arborist Recommendations

**BUCCANEER DEMOLITION** Demolition Debris Calculation and Equipment Survey

**COAST RIDGE ECOLOGY** Surveys for Roosting Bats

**CORNERSTONE EARTH GROUP** Geotechnical Investigation, Phase 1 ESA, Soil Quality Evaluation

**HEXAGON TRANSPORTATION  
CONSULTANTS, INC.**

Trip Generation Study

**HOLMAN & ASSOCIATES**

Cultural Resources Study

**ILLINGWORTH & RODKIN, INC.**

Environmental Noise Assessment, Air Quality and  
Greenhouse Gas Emissions Assessment

**JOHN J. LEONE**

Arborist Tree Inventory

**RG ENVIRONMENTAL**

Limited Asbestos and Lead Survey Report

**RBF CONSULTING**

Storm Water Management Plan

**WRA**

Biological Resources Assessment