Initial Study

Block 8 Mixed Use Office

H19-033

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

This Initial Study has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations Section 15000 et seq.), and the regulation and policies of the City of San José.

This Initial Study has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy 2040 plan and Envision San José 2040 General Plan (General Plan).

This Initial Study and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, 3rd floor, during normal business hours.

1.2 TIERING OF ENVIRONMENTAL REVIEW

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, this Initial Study, as part of the Supplemental Environmental Impact Report (EIR), tiers from the certified 2018 Downtown Strategy 2040 Final EIR (Downtown Strategy 2040 FEIR) (SCH# 2003042127) and certified 2011 Envision San José 2040 Final Program EIR (General Plan FEIR) (SCH# 2009072096) and Addenda thereto, all of which are specifically incorporated by reference into this document.

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

CEQA Guidelines Section 15162 states that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
    (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the proposed project description and knowledge of the project site, the City has concluded that the proposed project would result in a new significant shade and shadow impact not previously disclosed in the Downtown Strategy 2040 FEIR. For these reasons, a supplemental EIR is required and has be prepared to analyze the land use (which includes shade and shadow) impacts of the project.

1.2.1 Downtown Strategy 2040

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the Downtown area. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program-level.

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This Initial Study provides that subsequent project-level environmental review.

1.2.2 Envision San José 2040 General Plan

In 2011, the City of San José certified the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (SCH# 2009072096) (General Plan FEIR) and approved the General Plan, which is a long-range program for the future growth of the City. The General Plan FEIR (as amended) was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program-level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project-level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. The City of San José also certify an Envision San José 2040 General Plan Supplemental FEIR to include and update the greenhouse gas emissions analysis in December 2015. On December 13, 2016, as part of the General Plan Four-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and Supplemental FEIR, to modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same.

2.3 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075[g]).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Block 8 Mixed Use Office

2.2 LEAD AGENCY CONTACT

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2.3 PROJECT APPLICANT

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2.4 PROJECT LOCATION

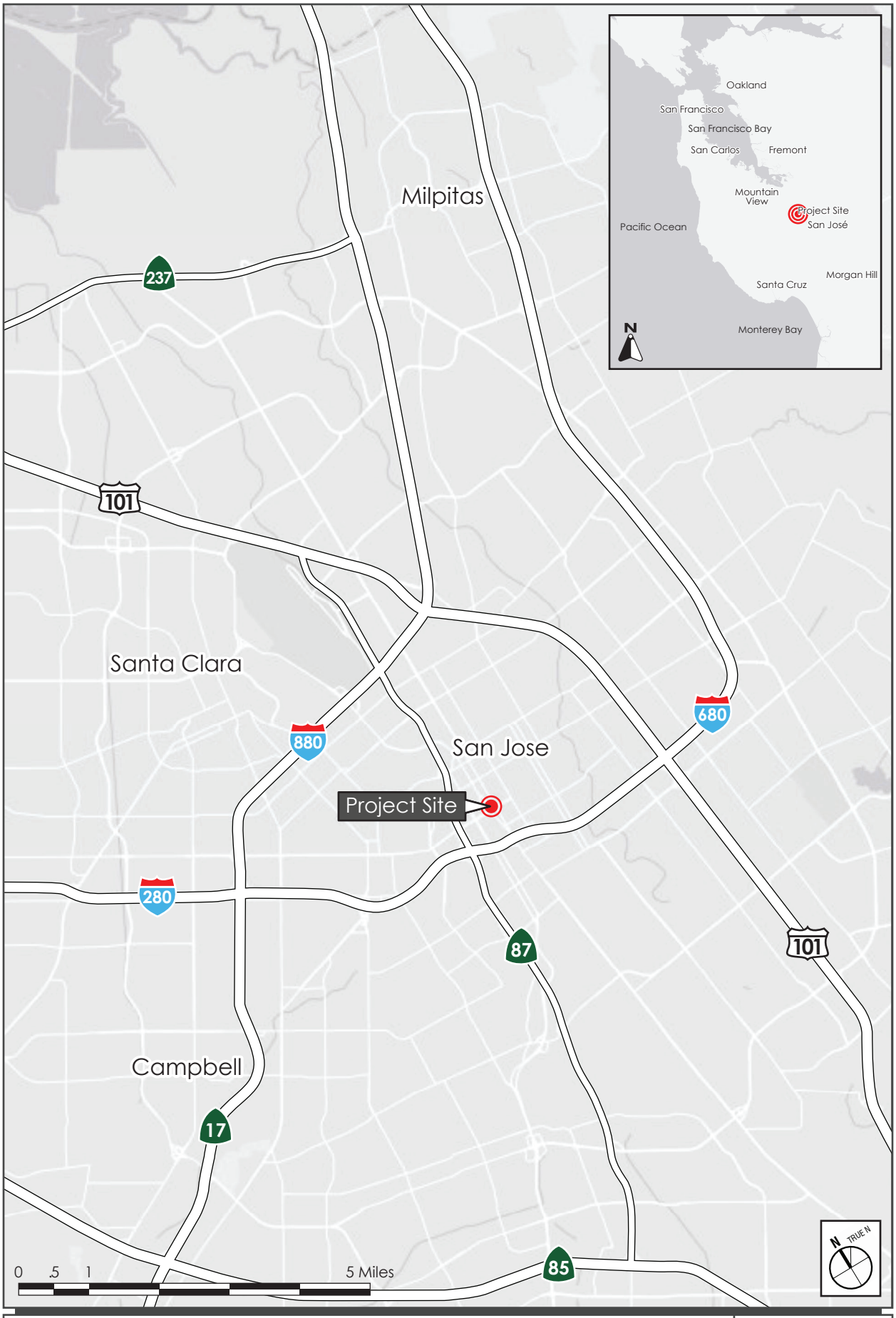
The approximately 1.5-acre project site (Assessor Parcel Number [APN] 259-42-080), also known as Block 8, is located at 282 South Market Street, on the north side of West San Carlos Street between South Market and South First Streets. Vehicular access to the project site is provided via driveways on South Market Street and South First Street. Sidewalks are available on the project site frontages on South Market Street, West San Carlos Street, and North First Street.

The project site is currently paved and used as a surface parking lot. The northeastern portion of the site is available for use by the Four Points Sheraton Hotel, which is adjacent to the north of the project site. The remaining portion of the lot operates as a public, self-pay parking lot.

Surrounding land uses include commercial and residential uses to the north of the site, governmental office buildings to the east, commercial and residential uses to the south, and park uses to the west.[1]

Refer to Figure 2.4-1, Figure 2.4-2, and Figure 2.4-3 for a regional map, vicinity map, and aerial photograph of the project site.

[1] For ease of reference, South First Street is considered east of the site, West San Carolos Street is considered south of the site, and South Market Street is considered west of the site.



REGIONAL MAP | FIGURE 2.4-1

VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

2.5 ASSESSOR'S PARCEL NUMBER

259-42-080

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The proposed project is designated Downtown under the General Plan and is zoned DC – Downtown Commercial.

2.7 SANTA CLARA VALLEY HABITAT PLAN DESIGNATION

Private Development Area:	Area 4: Urban Development Equal to or Greater than Two Acres Covered
Land Cover:	Urban – Suburban
Land Cover Fee Zone:	Urban Areas (No Land Cover Fee)

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The discretionary actions for the project are anticipated to include the following:

- Site Development Permit
- Tentative Map
- Demolition Permit
- Encroachment Permit
- Building Permit
- Grading Permit
- Other Public Works Clearances

Ministerial permits from the City, such as grading permits and building permits, would also be required.

SECTION 3.0 PROJECT DESCRIPTION

The project proposes to demolish and remove the existing surface parking lot and construct an office mixed-use building of up to 20-stories (up to 295 foot tall with mechanical parapet). The total floor area of the building would be up to approximately 1,049,845 square feet. The building would include up to approximately 16,375 square feet of commercial uses on the ground floor, 627,210 square feet of office uses on the first floor and floors 8 through 19, and parking on floors 2 through 7.[2] The project could include two levels of underground parking if the maximum amount of development identified is constructed.

Floor 17 would include an approximately 12,600-square foot "sky garden," which would consist of landscaping, seating and furniture and areas for casual dining and socializing. Similarly, floor 18 or 19 would include an up to approximately 10,550-square foot sky garden programmed the same way. Outdoor amenity areas are proposed on floor 1 (up to 1,105 square feet) and floor 8 (up to 430 square feet).

The parking facilities (below and above ground) and commercial space would be constructed with a ventilation system, and the below ground parking facilities would be equipped with a combination of water intrusion/soil vapor barriers below and behind the concrete building basement slab and sidewalks. The ventilation system and water intrusion/soil vapor barriers are proposed to reduce potential vapor intrusion into the proposed building (including the upper levels of office uses).

Vehicle access to the project would be provided via driveways on South Market Street and First Street. The driveway on Market Street would provide sole access to and from the proposed parking garage. The driveway on First Street would primarily provide access to and from the loading, trash, and back of house facilities. As part of the project, the existing 16-foot wide driveway curb-cut on First Street currently serving the project site would be widened to approximately 38 feet and the existing Four Points Hotel trash enclosure would be demolished and a new trash staging area serving the Four Points Hotel would be located further west within the drive aisle easement. The project includes gates between the parking garage entrance and the hotel trash staging area that would be typically closed to prevent vehicles from utilizing the First Street driveway. In the event traffic congestion along Market Street inhibits vehicles from entering or exiting using the Market Street driveway, the First Street driveway could be used as an alternative access point. The use of First Street as an ingress and egress point would be controlled by the building operator by opening gates east of the parking garage entrance.

[2] The stated commercial and office square footages represent the leasable square footage and includes the area that can be occupied by tenants. The stated commercial and office square footages do not include elevator shafts or back of house/building equipment/maintenance space.

Consistent with the City's parking requirements, the project would provide:

- 2.5 vehicular parking spaces per 1,000 square feet of office uses
- One bicycle parking per 4,000 square feet of office uses (with a minimum of 80 percent of short-term bicycle parking spaces and 20 percent long-term bicycle parking spaces)
- Two short-term bicycle and one long term bicycle parking space per retail space.

The project would also include a 80-foot long passenger loading zone on the west project frontage on Market Street. The loading zone would provide space for three to four vehicles to park. The proposed loading zone may require the removal of one existing on-street parking space.

Pedestrian access to the site would continue to be provided via sidewalks on South Market Street, West San Carlos Street, and South First Street.

There are 31 existing trees on-site or directly adjacent to the site. It is anticipated six, non-native London plane trees (two of which are ordinance-sized) would be removed as a result of the project.

A conceptual site plan and cross-section of the project are shown in Figure 3.0-1 and Figure 3.0-2.

3.1 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

The proposed project would replace the sidewalks on South Market Street and West San Carlos Street, and plant four new street trees (honey locust) to match the existing trees on adjacent parcels along South Market Street.

3.2 UTILITY IMPROVEMENTS

The project requires connections to existing utilities in the area to serve the proposed commercial and office uses. The project includes new on-site water, sewer, and storm drainpipes which would connect to existing water, sewer, and storm drain mains/lines in the project area. The project also includes on-site features to treat stormwater runoff prior to discharge to the City's stormwater system. C3 guidelines dictate this project is a transit-oriented development (special project) and allows the use media filter system (MFS) units to treat up to 100 percent of the site.

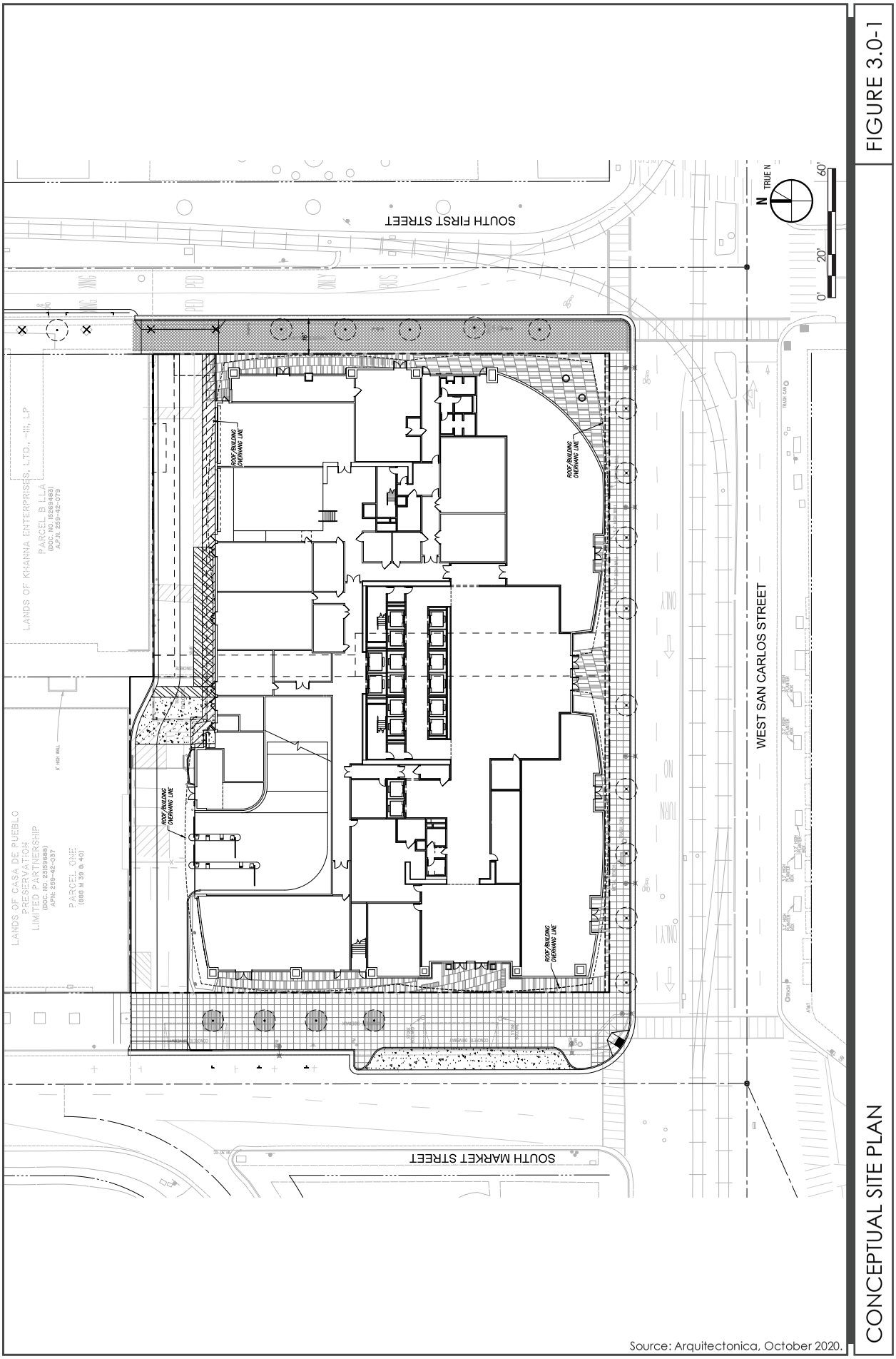
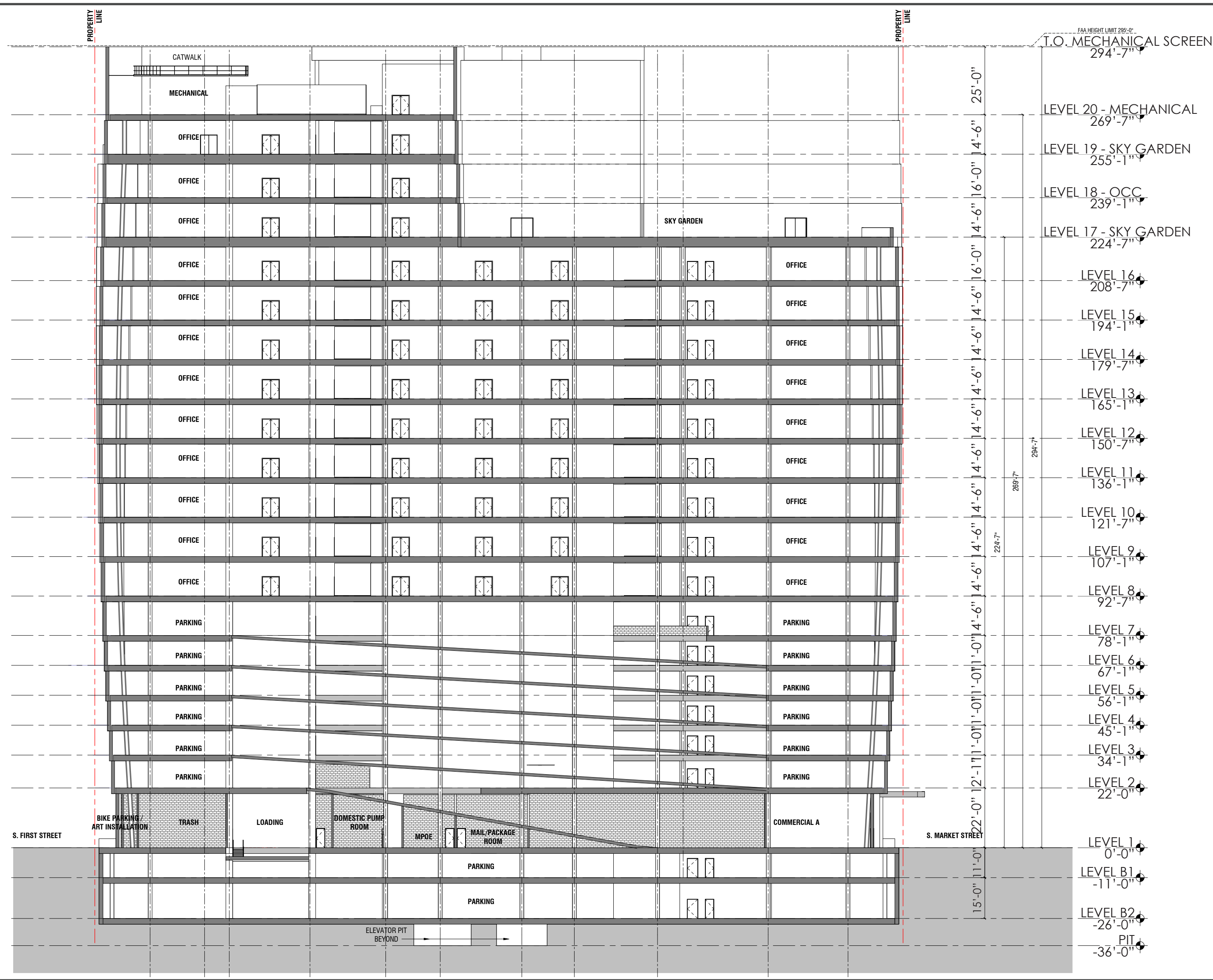


FIGURE 3.0-1

CONCEPTUAL SITE PLAN

Source: Arquitectonica, October 2020.



Source: Arquitectonica, November 6, 2020.

CONCEPTUAL CROSS-SECTION

FIGURE 3.0-2

3.3 GREEN BUILDING AND TRANSPORTATION DEMAND MANAGEMENT MEASURES

Consistent with the City's Private Sector Green Building Policy, the commercial portion of the project would be designed to achieve, at minimum, Leadership in Energy and Environmental Design (LEED) Silver. The project would incorporate green building measures such as minimizing parking to encourage alternative forms of transportation, providing electric vehicle (EV) chargers for five percent of the parking stalls, utilizing low flow plumbing fixtures, incorporating submetering systems for energy and water, using all Light Emitting Diode (LED) lighting to minimize use of energy and use of mercury in light bulbs, and commissioning of the building to ensure the building performs as designed, to achieve the LEED requirements.

The project also includes Transportation Demand Management (TDM) measures to reduce single-occupancy vehicle trips such as on-site bicycle parking, carpool matching program, on-site car share service, and transit subsidies.

3.4 CONSTRUCTION

Construction of the project would take approximately 34 months. Approximately 80,000 cubic yards of soil would need to be excavated and hauled off-site (at a maximum depth of 36 feet), and a crane of up to 350 feet tall would be used during construction. Project construction would occur within the allowable hours stipulated the City's Municipal Code, with the exception of 24-hour concrete pours. The project would have four separate 24-hour mat pours. Construction equipment would be staged on-site and on nearby private property upon mutual agreement.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. Mitigation measures are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Mitigation measures labeled as "Required Downtown Strategy 2040 FEIR Measures" in this document are measures required by the Downtown Strategy 2040 FEIR to reduce environmental impacts that are not City standard permit conditions or measures identified in technical reports completed for the project. Mitigation measures labeled as "Mitigation Measures" in this document are measures consistent with those identified and required of development in the Downtown Strategy 2040 FEIR and have also been identified in technical reports completed for the project.

  Additionally, "Standard Permit Conditions" and "Conditions of Approval" are also identified. "Standard Permit Conditions" are identified and are conditions the City typically requires of all development projects to comply with existing laws and regulations and "Conditions of Approval" are measures the City requires to address non-CEQA issues.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically VMT. SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[3]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[4]

[3] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed April 26, 2019. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[4] California Department of Transportation. "Scenic Highways." Accessed April 26, 2019. http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html.

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos city limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 (I-280) from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

Local

Envision San José 2040 General Plan

The General Plan identifies "gateways," freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

General Plan Policies – Aesthetics

Attractive City	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high-tension electrical transmission lines are exempt from this policy.
Downtown Urban Design	
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
CD-6.8	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest and by fostering active uses and avoiding prominence of vehicular parking at the street level.

General Plan Policies – Aesthetics	
CD-6.9	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
Landmarks and Districts	
LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.

San José Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City of San José Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City of San José Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a

monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

City of San José Council Policy 4-3: Private Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done, and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The downtown area is exempt from this policy.

4.1.1.2 *Existing Conditions*

Project Site

The project site is currently an asphalt-paved parking lot with a parking lot entry kiosk and pay station located on the southwestern portion of the site. The site includes minimal landscaping, consisting of trees on the northern and eastern site boundaries and low, ivy hedges and planter boxes around the eastern, southern, and western site boundaries. Views of the project site and surrounding area are provided in Photos 1 through 6.

Surrounding Visual Character

The project site is located in an urban area, surrounded by development. The rectangular shaped site is the entire width of the City block and is bounded multi-story commercial buildings to the north and two- and four-lane roadways the east, south, and west (i.e., South First Street, West San Carlos Street, and South Market Street). The buildings within the vicinity of the project site vary in height from one to 12 stories and are of a variety of architectural styles and building materials. There are several visually distinctive buildings located within the immediate project site (Marriot, St. Claire Hotel, St. Claire Apartments, Four Points by Sheraton, and Art-Deco Building) that have a neoclassical/renaissance-revival, terra-cotta-clad designs, diagonal corner elements, faux stone cladding and ornate spandrel panels, and neo-modern compositions of concrete and glass (see photos 4 and 5). A public park, Plaza De Cesar Chavez, is located to the west of the site on the west side of South Market Street. Plaza de Cesar Chavez includes flat lawn areas, mature trees, seating areas, pedestrian paths, and water-feature (see photo 6).

Photo 1: View of the project site facing east from South Market Street.

Photo 2: View of the eastern site boundary facing north on South First Street.

PHOTOS 1 & 2

Photo 3: View of the western site boundary facing north on South Market Street.

Photo 4: View of St. Claire Hotel, St. Claire Apartments, and Art-Deco Building across the project site facing north on West San Carlos Street.

PHOTOS 3 & 4

Photo 5: View of the project site facing north on West San Carlos Street.

Photo 6: View of the Plaza De Cesar Chavez facing west from the project site.

PHOTOS 5 & 6

Scenic Views

Scenic vistas in the City include the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. The project site is relatively flat and surrounded by development; therefore, views of scenic vistas are not available from the project site. No rock outcroppings are present on-site and the site is not adjacent to a state scenic highway. Trees, which can be considered a scenic resources, are located along the northern and eastern site boundaries. A more detailed description of trees on-site is provided in Section 4.4 Biological Resources.

Light and Glare

Source of light and glare is abundant in the urban environment of the project area. These sources consist of streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective surfaces and windows.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Except as provided in Public Resources Code Section 21099[5], would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

[5] Pursuant to Public Resources Code Section 21099(d)(1), aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

a) Would the project have a substantial adverse effect on a scenic vista?

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

As described in Section 4.1.1.2 Existing Conditions, views of scenic vistas are not available from the project site. No rock outcroppings are present on site and the site is not adjacent to a state scenic highway. The project is required to conform to existing regulations governing scenic quality (including those to minimize light and glare), including the regulations identified in Section 4.1.1.1 Regulatory Framework.

While the proposed project would result in changes to the built environment, the future development is an employment center located on an infill site within a transit priority area.[6] Pursuant to SB 743 (Public Resource Code Section 21099[d][1]) "aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment;" therefore, the aesthetics impacts of the project are not significant.

In addition, the Downtown Strategy 2040 FEIR concluded that buildout of the Downtown Strategy 2040 (which includes the proposed development) would not result in significant aesthetic impacts with the implementation of General Plan policies, design guidelines, and municipal code controls pertaining to lighting.

Based on the above discussion, the project would not result in new or substantially more severe aesthetic impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[6] Metropolitan Transportation Commission. "Transit Priority Areas (2017) GIS Map." Accessed February 20, 2020. http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-121.895%2C37.330%2C-121.881%2C37.333

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[7]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[8]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[9] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[10]

[7] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 26, 2019. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[8] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[9] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[10] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 26, 2019. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

There are four farmland categories in the FMMP: Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. According to Santa Clara County Important Farmland map, the project site is designated as Urban and Built-Up Urban, which is defined as land that is occupied by structures with a building density of at least one unit to 1.5 acres, or approximately six structures to a 10 acre-parcel.[11]

The project site has a General Plan land use designation of Downtown and is zoned Downtown Core. The project is currently developed and used as a parking lot. The project site is not used for agriculture, forestry, or timberland; and is not the subject of a Williamson Act contract. No land adjacent to the project site is used for agricultural production. Surrounding properties are designated, zoned, and used for urban uses (see Figure 2.4-3). The land on and adjacent to the site is not forest land or timberland, or zoned for timberland production.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) 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?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

[11] California Department of Conservation, Division of Land Resources Protection. *Santa Clara County Important Farmland 2016.* September 2018.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) 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?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on agriculture and forestry resources, as described below.

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

As discussed above in Section 4.2.1.2 Existing Conditions, the project is not designated or used for agricultural use. For this reason, the project would not convert farmland to a non-agricultural use. The project would not result in new or substantially more severe farmland impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project site is zoned Downtown Core and is not zoned for agricultural use. The project site is not subject to the Williamson Act contract. The project, therefore, would not conflict with existing zoning for agricultural use or a Williamson Act contract. The project would not result in new or substantially more severe agricultural or Williamson Act contract impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is not zoned for forest land, timberland, or timberland production. The project, therefore, would not conflict with zoning for these uses. The project would not result in new or substantially more severe forest land or timberland impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?

The project site is not used or designated for forest land; therefore, the project would not result in a loss of forest land or conversion of forest land to a non-forest use. The project would not result in new or substantially more severe forest land impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

e) Would the project 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?

As described above, the project site is not used or zoned for agriculture for forest land. The project site is not located within the vicinity of farmland or forest land. For these reasons, implementation of the project would not result in the conversion of farmland or forest land. The project would not result in new or substantially more severe agriculture or forestry impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based, in part, on an air quality assessment prepared for the project by Illingworth & Rodkin, Inc. dated October 15, 2020. A copy of the assessment report is included as Appendix A.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[12] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
O_3	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

[12] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include, but are not limited to, criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[13] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

[13] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed January 21, 2020 . https://www.arb.ca.gov/research/diesel/diesel-health.htm.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional and Local

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[14]

[14] BAAQMD. *Final 2017 Clean Air Plan.* January 22, 2020.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area air basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality and are applicable to the project. In addition, goals and policies throughout the General Plan encourage a reduction in VMT through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel through parking supply and pricing management; and requirements for TDM programs for large employers.

General Plan Policies – Air Quality	
Air Pollutant Emission Reduction	
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.
Toxic Air Contaminants	
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed development.
MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

Sensitive Receptors

The closest sensitive receptors to the project site are adult senior apartments at 200 South Market Street (Casa Del Pueblo), which are adjacent to the project's northern boundary. The closest residential building that could include all age groups (i.e., infants, children, and adults) is the St. Claire Apartments at 311 South First Street, above Original Joe's, approximately 80 feet to the south of the project site. Additional residences are planned (or under construction) near the project site, including the student housing project located at 80 East San Carlos Street (approximately 445 feet east of the site).

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area air basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions (pounds/day)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)	

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors. The Downtown Strategy 2040 FEIR did, however, identify a significant unavoidable cumulative regional air quality impact, as discussed below.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

The Downtown Strategy 2040 FEIR concluded that the build-out of Downtown Strategy 2040 (which includes the proposed development) would be consistent with the 2017 CAP. As summarized in Table 4.3-3 below, the project would be consistent with the intent of applicable 2017 CAP control measures intended to reduce automobile trips, as well as energy, water, and waste. **(Same Impact as Approved Project [Less than Significant Impact])**

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	As discussed in Section 4.17 Transportation/ Traffic, the project site is adequately served by existing transit, bicycle, and pedestrian facilities. The project site location and existing multi-modal facilities facilitate alternatives to single occupancy vehicle trips. In addition, the project would implement a Transportation Demand Management program and include on-site bicycle parking. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include on-site bicycle parking, and pedestrian sidewalks are provided on all street frontages. The project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action places and other local best practices.	Plan Bay Area establishes a course for reducing per-capita GHG emissions through the promotion of compact, high density, mixed-use neighborhoods near transit. The project site is proximate to transit services and proposes high-density office development within a mixed-use area of downtown.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Green Buildings	Identify barriers to effective local implementation of California Green Building Code (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with the City's Green Building Ordinance and the most recent California Building Code. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project's parking would be located interior to the building on floors two through seven and therefore, would not contribute to the urban heat island effect. The proposed project would include a sky garden on floors 17 and 19, which would reduce the urban heat island effect. The project is consistent with this control measure.
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project is required to adhere to the City's tree replacement policy and comply with the City Tree Removal Ordinance. As discussed in Section 4.4 Biological Resources, the project would implement best management practices to protect trees during construction. The project is consistent with this control measure.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program, which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

The Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors (refer to Appendix A), which apply to both construction period and operational period impacts. The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction and operation of the site assuming full build-out of the project.

Construction Emissions

The Downtown Strategy 2040 FEIR evaluated construction emissions of future projects under the Downtown Strategy 2040 and concluded that screening levels would not result in a significant impact related to construction emissions of regional criteria pollutants.

CalEEMod computes annual emissions for construction that are based on the project type, size, and acreage. Inputs to CalEEMod were developed that take into account demolition of the on-site uses, excavation, and building construction. CalEEMod provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The construction build-out scenario, including equipment list and schedule, were based on information provided by the project applicant. Refer to Appendix A for details about the modeling, data inputs, and assumptions. Table 4.3-4 summarizes the project's average daily construction emissions of ROG, NO_x, PM_{10} exhaust, and $PM_{2.5}$ exhaust and shows that the predicted construction period emissions would not exceed BAAQMD significance thresholds.

Table 4.3-4: Estimated Average Daily Project Construction Emissions				
Scenario	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
	(pounds per day)			
Project Construction Emissions	14.5	50.0	1.4	1.3
BAAQMD thresholds	*54*	*54*	*82*	*54*
Exceed threshold?	No	No	No	No

Additionally, with the implementation of the below BAAQMD Best Management Practices (BMPs) to control dust and exhaust emissions during construction required by the Downtown Strategy 2040 FEIR, the project's construction emissions would be further reduced and would be less than significant.

Standard Permit Conditions:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The project would not result in new or substantially more severe construction criteria air pollutant impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Less than Significant Impact])**

Operational Emissions

The Downtown Strategy 2040 FEIR concluded that the build-out of the Downtown Strategy 2040, (which includes the proposed development) would result in significant, unavoidable operational emissions.

Operational air emissions from the project would be generated primarily from vehicles driven by future employees, customers, and vendors. CalEEMod computes annual emissions for operation based on emission from vehicles, architectural coatings, maintenance products, energy use, and generator use. The operational emissions for the project were modeled and the results are summarized in Table 4.3-5 below. Refer to Appendix A for details about the modeling, data inputs, and assumptions. shows the operational emissions from the proposed land uses.

As shown in Table 4.3-5, the project's annual and daily operational emissions would not exceed the BAAQMD thresholds of significance. Therefore, operation of the proposed project by itself would not result in a significant air quality impact from operational emissions. The project would also be required to obtain a BAAQMD permit to operate the proposed on-site emergency generator, the permit requirements of which would ensure no significant air quality impacts from its operation.

Table 4.3-5: Estimated Project Operation Emissions

Scenario	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Annual				
Project Operational Emissions (tons)	3.7	3.4	3.0	0.8
BAAQMD thresholds (tons)	*10*	*10*	*15*	*10*
Exceed threshold?	No	No	No	No
Daily				
Project Operational Emissions (pounds)	20.1	18.4	16.4	4.7
BAAQMD thresholds (pounds)	*54*	*54*	*82*	*54*
Exceed threshold?	No	No	No	No

In addition, consistent with the Downtown Strategy 2040 FEIR, the project is required to implement a TDM program to reduce emissions associated with vehicle travel.

Required Downtown Strategy 2040 FEIR Measures:

To reduce emissions associated with vehicle travel from the buildout of Downtown Strategy 2040, the project is required to implement a TDM program. The project, at minimum, includes the following TDM measures from Subsections 20.90.220.A.1.c and d of the San Jose Code of Ordinances:

- Transit Use Incentive Program (20.90.220.A.1.c.ii)
- On-Site Support Services (20.90.220.A.1.d.xi)
- On-Site Showers and Lockers (20.90.220.A.1.d.xii)

When building tenant(s) are known, additional TDM measures could be implemented.

Based on the above discussion, the project would not result in new or substantially more severe operational air quality impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Significant Unavoidable Impact])**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Consistent with the certified Downtown Strategy 2040 FEIR, the project has completed a project-level analysis to evaluate the community health risk to existing sensitive receptors from project during construction and operation periods.

Community Health Risks from Project Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. As discussed under checklist question b), construction exhaust air pollutant emissions would not contribute substantially to existing or projected air quality violations. Construction exhaust emissions, however, may pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$.

A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.[15] Refer to Appendix A for details about the community health risk modeling, data inputs, and assumptions.

Table 4.3-6 summarizes the maximum excess cancer risk, annual $PM_{2.5}$ concentration, and non-cancer Hazard Index (HI) based on the maximum DPM concentration affecting the maximally exposed individual (MEI), which is the sensitive receptor affected the most by project construction emissions. The MEI during the construction period would occur at the St. Claire Apartments immediately south of the project site across West San Carlos Street at the St. Claire Apartments on the third floor. Table 4.3-6 shows that the project's cancer and annual $PM_{2.5}$ risks would be 132.0 excess cancer cases per million and 0.51 $\mu g/m^3$, which would exceed the BAAQMD thresholds of

[15] DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

significance of 10 excess cancer cases per million and 0.3 µg/m^3 annual $PM_{2.5}$ concentration. The project's non-cancer HI value of 0.10 would not exceed the BAAQMD threshold of significance of 1.0.

Table 4.3-6: Construction Risk Impacts at the Offsite Residential MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ (µg/m^3)	Hazard Index
Project Construction			
Unmitigated	**132.0**	**0.51**	0.10
Mitigated	7.1	0.05	0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>1.0*
Exceed Threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	No	No	No

Note: **Bold** text indicates a significant impact.

Impact AIR-1: Project construction emissions would result in significant community health risks (i.e., cancer risk and annual $PM_{2.5}$).

Mitigation Measure:

MM AIR-1.1: Prior to the issuance of any grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 93-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction may include, but is not limited to, the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.
- Install electric power during early construction phases to avoid use of diesel generators and compressors.
- Stationary construction cranes (building cranes) shall be powered by electricity.
- A majority or forklifts and aerial lifts used for interior construction shall be electric or propane/natural gas powered.

The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building, and Code Enforcement (PBCE), or Director's designee, prior to the issuance of any demolition or grading permits.

With the implementation of mitigation measure MM AIR-1.1 above, which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR, project construction health risks would be reduced to 7.1 excess cancer cases per million and 0.05 µg/m^3 annual $PM_{2.5}$ concentration (see Table 4.3-6). With the implementation of the above mitigation measure, the health risks are below the BAAQMD thresholds of significance.

Based on the above discussion, the project would not result in new or substantially more severe construction health risk impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Less than Significant Impact])**

Community Health Risks from Project Operation

Operation of the project would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (i.e., emergency generators). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

Operational Traffic

Vehicle trips from the project were estimated for the project in the transportation analysis completed for the project (refer to Appendix G). At the MEI (i.e., sensitive receptors at St. Claire Apartments), project traffic would result in 1.6 excess cancer cases per million and annual $PM_{2.5}$ concentrations of 0.08 µg/m^3, which are below the BAAQMD thresholds of significance of 10 excess cancer cases per million and 0.3 µg/m^3 (respectively). BAAQMD has determined that the non-cancer hazards from all local roadways would be below 0.03, which is below the HI threshold of significance of 1.0. For these reasons, the project would not result in a significant health risk impact from project-generated traffic.

Based on the above discussion, the project would not result in new or substantially more severe operational traffic health risk impacts than disclosed in the Downtown Strategy 2040 FEIR.**(Same Impact as Approved Project [Less than Significant Impact])**

Operational Emergency Generator Modeling

The project would include a 1,000-kW emergency generator located on the first-floor in the mechanical areas of the building. The exact size of the generator is unknown so it was assumed that the emergency generator would be powered by an approximately 1,340 horsepower diesel engine.[16]

[16] Other, larger office projects in San José have proposed 1,000 kW emergency generators, which have an approximately 1,340 horsepower diesel engine. The assumption of a 1,340 horsepower diesel engine emergency generator for the project, therefore, is a conservative estimate and the project would most likely include a smaller generator. The emissions and risks predicted in this Initial Study, therefore, are likely higher than what the actual risks would be for the project.

Operation of a diesel generator would be a source of TAC emissions. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of nonemergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet EPA emission standards and consume commercially available California low sulfur diesel fuel. The emissions from the operation of the generator were modeled and the results show that the increased cancer risk from the generator would be 3.4 excess cancer cases per million, which is below the BAAQMD threshold of significance of 10 excess cancer cases per million. The maximum annual $PM_{2.5}$ concentration would be less than 0.01 $\mu g/m^3$ and the HI value would be less than 0.01, both of which are below the BAAQMD thresholds of significance of 0.3 $\mu g/m^3$ and 0.03 (respectively).

Based on the above discussion, the project would not result in new or substantially more severe operational health risk impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Less than Significant Impact])**

Community Health Risks from Project Construction and Operation

The health risk impacts from the combination of project construction and operation sources were evaluated. The cancer risks from construction and operation of the project were summed together. Unlike the increased maximum cancer risk, the annual $PM_{2.5}$ concentration and HI risks are not additive but based on an annual maximum risk for the entirety of the project.

Table 4.3-7 summarizes the combined health risk from project construction and operation sources over a 30-year period and shows that the combined unmitigated maximum cancer risk and annual $PM_{2.5}$ concentration would exceed the BAAQMD single-source thresholds of significance. The non-cancer risk (HI) from the combined sources would be below the BAAQMD threshold of significance.

Impact AIR-2: The health risk from the combination of project construction and operation sources would exceed the BAAQMD thresholds of significance for cancer risk and annual $PM_{2.5}$ of >10.0 per million and >0.3 $\mu g/m^3$, respectively.

Mitigation Measures: The project shall implement mitigation measure MM AIR-1.1 above and the following mitigation measure to reduce the combined construction and operational health risk impact:

MM AIR-2.1: Prior to issuance of building permits, the project applicant shall either (1) submit documentation by a qualified air quality consultant that demonstrates the equipment includes diesel particulate matter filters that achieve a minimum 85-percent reduction in particulate matter emissions to the Director of PBCE or Director's designee or (2) submit documentation by a qualified air quality consultant that has been reviewed and approved by the Director of PBCE, or Director's designee, demonstrating that the project generators will not increase lifetime cancer risk by 10 chances per million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures:

- Placement of the equipment;
- Placement and orientation of the exhaust stacks;
- Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or
- Limitation to the operation hours to less than 50 hours per year.

Table 4.3-7: Construction and Operations Risk Impacts at the Offsite Residential MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction (Years 0-3)			
Unmitigated	**134.4**	0.51	0.10
Mitigated	7.1	0.05	0.01
Project Traffic (Years 4-30)	1.6	0.08	<0.03
Project Generators (Years 4-30)			
Unmitigated	3.4	<0.01	<0.01
Mitigated	0.5	-	-
Unmitigated Total/Maximum Project (Years 0-30)	**139.4**	**0.60**	0.14
Mitigated Total/Maximum Project (Years 0-30)	9.2	0.14	0.05
BAAQMD Single-Source Threshold	>10.0	>0.3	>1.0
Exceed Threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	No	No	No

Note: **Bold** text indicates a significant impact.

With the implementation of mitigation measures MM AIR-1.1 and MM AIR-2.1 above, which are consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR, the project's health risk from combined construction and operational sources would be reduced to 9.2 excess cancer cases per million and 0.14 $\mu g/m^3$ for annual $PM_{2.5}$ concentration (Table 4.3-7). With the implementation of the mitigation measures, the health risks are below the BAAQMD thresholds of significance.

Based on the above discussion, the project would not result in new or substantially more severe construction and operational health risk impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Less than Significant Impact])**

Cumulative Community Risks of Existing and Project TAC Sources

The geographic area for cumulative impacts to sensitive receptors is within 1,000 feet of the project site. This distance is recommended by BAAQMD because adverse effects are the greatest within this distance. At further distances, health risk diminishes. A review of the project area indicated existing sources of TACs within 1,000 feet of the project site with the potential to affect the MEI include roadways with high-volume of traffic (i.e., San Carlos Street and South Market Street) and 11 stationary sources. In addition, there are approved development projects (i.e., 200 Park Avenue, Parkside Hall/Museum Place, and Tribute Hotel) whose construction would contribute to the cumulative risk and, therefore, are included in the cumulative analysis. The community risk impacts from the cumulative sources to the project MEI were modeled and the results are summarized in Table 4.3-8. Refer to Appendix A for details about the modeling, data inputs, and assumptions.

As shown in Table 4.3-8, the health risk from the cumulative sources (including project construction and operation) would be significant. The estimated maximum cancer risk of 161.8 and the annual $PM_{2.5}$ concentration of 1.17 µg/m^3 would exceed the BAAQMD cumulative source thresholds of significance of 100 excess cancer cases per million and 0.8 µg/m^3, respectively.

Table 4.3-8: Construction and Operations Risk Impacts at the Offsite Residential MEI

Source	Maximum Cancer Risk (per million)	$PM_{2.5}$ Concentration (µg/m^3)	Hazard Index
Project Impacts			
Total/Maximum Project (Years 0-30)			
Unmitigated	**139.4**	**0.60**	0.14
Mitigated	9.2	0.14	0.05
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>1.0*
Exceed Single-Source threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	No	No	No
Cumulative Sources			
West San Carlos Street	4.8	0.18	<0.03
South Market Street	2.6	0.09	<0.03
US General Services Administration (Plant #15031, Generator)	0.3	0.06	<0.01
San José Marriott Hotel (Plant#15125)	0.3	0.03	<0.01
360 Residences c/o Gateway Nathaniel Inc. (Plant #22400, Generator)	<0.1	-	-
DataPipe Inc. (Plant #22239, Generator)	5.0	0.01	<0.01

Table 4.3-8: Construction and Operations Risk Impacts at the Offsite Residential MEI			
Source	**Maximum Cancer Risk (per million)**	**$PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Hazard Index**
G&K Management (Plant #22239, Generator)	0.1	<0.01	<0.01
Owl Energy Resources Inc. (Plant #16779, Cogeneration System)	2.8	<0.01	<0.01
Fairmont Hotel, San José (Plant #8556, Generator)	0.8	0.04	<0.01
San José Hilton & Towers (Plant #13431, Generator)	0.3	<0.01	<0.01
Dept. of Convention & Cultural Affairs-San José (Plant#2060, Generator)	1.4	0.08	<0.01
City of San José (Plant#17018, Generator)	<0.1	<0.01	-
88 Master Association (Plant #18768, Generator)	0.1	<0.01	<0.01
Tribute Hotel Mitigated Construction Emissions	0.9	<0.01	<0.01
Museum Place Construction Emissions	2.2	0.01	0.01
200 Park Construction Unmitigated Emissions	0.6	<0.01	<0.01
Combined Sources			
Unmitigated	**<161.8**	**<1.17**	<0.32
Mitigated	<31.6	<0.71	<0.23
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Exceed Threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	No	No	No
Note: **Bold** text indicates a significant impact.			

Impact AIR-3: The project would result in a significant cumulative community health risk impact (i.e., cancer risk and $PM_{2.5}$).

Mitigation Measures: See mitigation measures MM AIR-1.1 and MM AIR-2.1.

Modeling was completed to determine the effectiveness of the mitigation measures. With the implementation of mitigation measures MM AIR-1.1 and MM AIR-2.2, which are consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR, the cumulative health risk to the project MEI would be reduced to 31.6 excess cancer cases per million and 0.71 µg/m^3 annual $PM_{2.5}$ concentration (see Table 4.3-8). The mitigated cumulative community health risks would not exceed the BAAQMD cumulative-source thresholds of significance.

Based on the above discussion, the project would not result in new or substantially more severe cumulative health risk impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Less than Significant Cumulative Impact])**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed project would not introduce land uses to the area that generate odors, such as dairy farms, wastewater treatment plants, landfills, or coffee roasting. The proposed building would include office and retail uses that do not generate odors. Operation of the proposed project would have no impact.

Operation of construction equipment at the project site and other development sites resulting from the implementation of Downtown Strategy 2040 could create objectionable odors that may be perceptible at nearby uses. Due to the localized and temporary nature of construction-related odors, future development under the Downtown Strategy 2040 (including the proposed project) would not generate odors that would affect a substantial number of people and would not result in a significant odor impact.[17] Additionally, the project is required to implement BAAQMD construction BMPs identified in the discussion of checklist question a) that would reduce odor generated during construction.

Based on the above discussion, the project would not result in new or substantially more severe odor impacts than disclosed in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project (Less than Significant Impact])**

[17] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 67.

4.4 BIOLOGICAL RESOURCES

The following discussion is based on an arborist report completed for the project by McClenahan Consulting, LLC, dated November 21, 2019. A copy of this report is included in Appendix B.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[18] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[18] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed March 28, 2019. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

General Plan Policies – Biological Resources	
Special Status Plants and Animals	
ER-4.1	Preserve and restore habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist, and mitigation is provided of equivalent value.
ER-4.3	Prohibit planting of invasive non-native plant species in natural habitats that support special-status species.
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.

General Plan Policies – Biological Resources	
Migratory Birds	
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Urban Natural Interface	
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Sustainable Parks and Recreation	
PR-6.5	Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.
Community Forest	
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.

General Plan Policies – Biological Resources	
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas, and which historically supported these species.
General Provision of Infrastructure	
IN-1.11	Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.
Community Design Policies – Attractive City	
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse affect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

San José Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

4.4.1.2 *Existing Conditions*

Sensitive Habitat and Special-Status Species

The only sensitive natural communities in the vicinity of the downtown area are the riparian forest and aquatic habitats within the corridors of Los Gatos Creek and the Guadalupe River. Guadalupe River is located approximately 0.3 miles west of the site.

The project site is mostly paved and used as a parking lot, and located in a developed, urban area. There is minimal landscaping (shrubs and street trees) along the perimeter of the site. There are no sensitive habitats (including wetlands) on or adjacent to the project site, therefore, no special-status animal or plant species are on-site.[19]

The site is located within the SCVHP area and has a land cover designation of Urban – Suburban.[20]

Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. Because redevelopment of the site is proposed, a tree survey was completed to document and evaluate the site's existing trees (refer to Appendix B).

There are 31 existing, non-native trees on-site or directly adjacent to the site. There are 20 Italian cypress trees located along the northern site boundary and 11 London plane trees located along the eastern site boundary between the parking lot and South First Street. Four of the London plane trees are ordinance sized and are in fair condition.

[19] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH #2003042127. December 2018. Page 72.
[20] Santa Clara Valley Habitat Agency. "Geobrowser." Accessed October 16, 2019. http://www.hcpmaps.com/habitat/.

4.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	☐
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐
d) 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?	☐	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant biological resources impacts, as described below.

a) Would the project 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?

As discussed under Section 4.4.1.2 Existing Conditions, given the urbanized nature of the project site and surrounding area, there are no sensitive habitats or special-status animal or plant species on or adjacent to the project site.

The nearest sensitive habitat communities to the project site that could include candidate, sensitive, or special status species are the riparian and aquatic habitats within the Guadalupe River corridor, which is approximately 0.3 miles from the site. Given the distance between the Guadalupe River and the project site, development of the project would not have a substantial adverse effect on the community.

The project site, however, includes trees which could be used by nesting birds (including migratory birds and raptors). Nesting birds are protected under the MBTA and by the California Fish and Game Code 3503, 3503.5, and 2800. Tree removals and construction disturbance during the breeding season could result in incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW. Construction activities could result in the loss of fertile eggs, nesting raptors, or nest abandonment and would constitute a significant impact.

Required Downtown Strategy 2040 FEIR Measures (with minor clarifications suggested by the CDFW[21])**:**

- Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31, inclusive (typically February 15 to August 30 for small bird species, January 15 to September 15 for owls, and February 15 to September 15 for other raptors).
- If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active bird nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. A final survey

[21] California Department of Fish and Wildlife. *Block 8 Project, Notice of Preparation of a Draft Environmental Impact Report, SCH# 2020029063, City of San José, Santa Clara County.* March 16, 2020.

shall be conducted within 48 hours prior to construction. During the surveys, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone to be established around the nest, in consultation with CDFW. The buffer would ensure that raptor or migratory bird nests would not be disturbed during project construction.

- The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of PBCE, or Director's designee, prior to the issuance of any grading or building permit.

The project, with implementation of the above required measures, would reduce impacts to nesting birds to a less than significant level by avoiding construction during nesting bird season or completing pre-construction nesting bird surveys.

Based on the above discussion, the project would not result in new or substantially more severe nesting bird impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

As discussed in Section 4.4.1.2 Existing Conditions and under Impact BIO-1, the project site is developed and located in an urbanized area. There are no riparian habitats located within or adjacent to the project site, and the project site does not support other sensitive natural communities. For these reasons, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulation or by the CDFW or USFWS.

Based on the above discussion, the project would not result in new or substantially more severe impacts to sensitive habitats than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

The project site is developed and located in an urbanized area. The project site does not contain state or federally protected wetlands. The project would not result in new or substantially more severe wetland impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

d) Would the project 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?

The project site is developed and surrounded by urban development. There are no sensitive habitats or waterways on or adjacent to the site and no native wildlife nursery sites in the vicinity. The nearest waterway to the site is the Guadalupe River, which is approximately 0.3 miles west of the project site. For these reasons, the project site does not facilitate substantial wildlife movement.
As discussed in the Downtown Strategy FEIR, the downtown area (which includes the project site) is located along the Pacific Flyway for migratory birds. The intensification of development within the downtown area may result in additional bird collisions. Given that the species know to occur in the downtown area are regionally abundant and adapted to urban development, possible collisions with new buildings would not result in substantial impacts on regional bird populations.[22]

Based on the discussion above, implementation of the project would not 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. The project would not result in new or substantially more severe impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Give the proposed building footprint and new driveway width and curb on South First Street, the development of the project would result in the removal of six, non-native London plane trees, two of which are ordinance-size. The trees to be removed are in fair condition. All other trees are proposed to be preserved.

[22] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 88.

Standard Permit Condition:

- **Replacement.** Replace all trees to be removed at the following ratios:

Table 4.4-1: Tree Replacement Ratios				
Circumference of Tree to be Removed[1]	**Type of Tree to be Removed[2]**			**Minimum Size of Each Replacement Tree**
	Native	**Non-Native**	**Orchard**	
38 inches or more[3]	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

[1] As measured 4.5 feet above ground level

[2] X:X = tree replacement to tree loss ratio

[3] Ordinance-sized tree

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

One 24-inch box tree = two 15-gallon trees

Six trees on-site would be removed: two ordinance-sized, non-native trees would be replaced at a 4:1 ratio and four 10-inch diameter non-native trees would be replaced at a 1:1 ratio. The total number of replacement trees required to be planted is 12 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of PBCE.

- **In-Lieu Mitigation.** In the event the project site does not have sufficient area to accommodate the required tree mitigation, the applicant shall implement one or more of the following measures, to the satisfaction of the Director of PBCE, at the development permit stage:
  - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
  - Payment of the Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City shall use the off-site tree replacement fee(s) to plant trees at alternative sites.

Required Downtown Strategy 2040 FEIR Measures:

- **Tree Protection Measures.** Implement the following measures during demolition and construction activities:

  Pre-construction Treatments

  - Retain a consulting arborist to discuss work procedures and tree protection with the construction superintendent before beginning work.
  - Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing, or grading. Fences shall be six feet tall and chain link, or equivalent, as approved by the consulting arborist. Fences are to remain until all grading and construction is completed.
  - Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

  During Construction

  - Prohibit grading, construction, demolition or other work within the TREE PROTECTION ZONE. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
  - Any root pruning required during construction shall receive the prior approval of, and be supervised by, the consulting arborist.
  - Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
  - Apply supplemental irrigation to trees as determined by the consulting arborist.
  - If injury should occur to any tree during construction, the consulting arborist shall evaluate the trees as soon as possible so that appropriate treatments can be applied.

The project, with the implementation of the above standard permit conditions and required measures, would not conflict with the City's Tree Removal Ordinance. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

While the project site is within the SCVHP permit area, it does not have a natural communities land cover designation identified for the purposes of protection, enhancement, and restoration. The site has a land cover designation of Urban – Suburban. The project shall comply with the SCVHP by implementing the below standard permit condition.

Standard Permit Condition:

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of PBCE or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The SCVHP and supporting materials can be viewed at www.scv-habitatplan.org.

The project, with the implementation of the above standard permit condition, would not conflict with the SCVHP. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.5 CULTURAL RESOURCES

The following discussion is based upon an Archaeological Literature Search completed by Holman & Associates dated August 2, 2019 and the following reports by Archives & Architecture:

- Historic Resource Project Assessment dated January 1, 2019
- Supplemental Historic Preservation Guidelines Review Memorandum dated July 9, 2020
- Addendum to the Supplemental Historic Preservation Guidelines Review dated September 11, 2020
- Addendum to the Supplemental Historic Preservation Guidelines Review Revisions Memorandum dated October 26, 2020

A copy of the Archaeological Literature Review is on file at the Department of PBCE and copies of the above listed historic report, memorandum, and addenda are included in Appendix C.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[23]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

[23] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed May 28, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease, and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the project.

General Plan Policies – Cultural Resource	
Landmarks and Districts	
LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.

General Plan Policies – Cultural Resource	
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.15	Implement City, state, and federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Historic Structures of Lesser Significance	
LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.
Archaeology and Paleontology	
ER-9.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation

Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

Draft San José Downtown Historic Guidelines

The Draft San José Downtown Historic Design Guidelines (2004) apply to the Downtown Core and provides criteria for addressing new construction adjacent to historic landmarks. The Guidelines identify eight contextual elements for new construction adjacent to historic resources: 1) lot patterns, 2) massing, 3) facades, 4) corner elements, 5) rear facades, 6) entries, 7) exterior materials, and 8) vehicular and pedestrian access.

San José Downtown Design Guidelines

The San José Downtown Design Guidelines and Standards (2019) provide guidance for the site planning, access, form, and design of buildings in downtown, their appearance in the larger cityscape, and their interface with the pedestrian level. They provide a framework of relevant criteria for addressing new construction adjacent to eligible historic resources. These guidelines include a series of Framework Plans, including Framework Plan 2.3 – Historic Sites and Districts, that identify design constraints downtown.

4.5.1.2 *Existing Conditions*

Archaeological Resources

As described in the Downtown Strategy 2040 FEIR, the Native American people who originally inhabited the Santa Clara Valley belong to a group known as the "Costanoan" or Ohlone. Most prehistoric archaeological sites have been found along or very near fresh water sources, adjacent to major Native American trails, and near stone sources in the foothills. The archaeological (subsurface) sensitive is moderate to high in the Downtown Strategy 2040 area due to its proximity to Los Gatos Creek and Guadalupe River.

There are seven recorded prehistoric sites within the Downtown Core, and five sites in the College Park neighborhood north of downtown. The project site has been previously investigated in three different cultural resources studies.

The site is located within a larger, known archaeological site marking the original location of the Plaza de San José de Guadalupe. The closest Native American site is located west of the project site and is listed on the NRHP and CRHP. The project site has a moderate to high sensitivity for Native American materials and deposits based on its proximity to the Guadalupe River, its tributary Canoas Creek, and original location of the Plaza de San José de Guadalupe. There is a high potential for historic-era archaeological deposits and cultural materials dating to the use of the project area beginning in the 1820s.

Historic Resources

The project site is located within an area with a mix of buildings, including historic buildings, some 20th century buildings that are not yet 50 years old, and more recently built high rises. The site is located within the historic subarea of the Downtown Core, which includes blocks on each side of Market and North First Streets north of the project site to about Paseo de San Antonio, and the northern portions of the blocks to the south, past San Carlos Street. This subarea includes six historic resources listed in the NRHP, CRHP, and/or designated City Landmarks:

1. Four Points by Sheraton (formerly the Montgomery Hotel and listed on the NRHP, CRHR, and City's HRI as a City Landmark)
2. Twohy Building (listed on the NRHP and the City's Inventory as a City Landmark)
3. Dohrman Building (listed on the NRHP and the City's HRI as a City Landmark)
4. St. Clare Apartments (formerly the St. Claire Building and listed on the City's HRI as a City Landmark)
5. Westin San José (formerly the St. Claire Hotel and listed on the NRHP and the City's HRI as a City Landmark)
6. City National Civic (formerly the San José Civic Auditorium and listed on the City's HRI as a City Landmark).

There is one building in the vicinity, the Valley Title Building (formerly Hale's Department Store), which is listed on the City's HRI as a Structure of Merit. Figure 4.5-1 shows the location of the above identified historic resources and the Valley Title Building (Hale's Department Store). The project site is not listed on the NRHP, CRHP, or City's HRI and is not considered a historic resource under CEQA.

NEARBY HISTORIC RESOURCES | FIGURE 4.5-1

4.5.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

In addition to the thresholds listed above, the City of San José considers a significant cultural resources impact to occur if the project would demolish or cause a substantial adverse change to one or more resources identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory or a structure that is an eligible Candidate City Landmark.

Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant cultural resources impact, as described below.

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

An earlier design of the project was evaluated in the Historic Resource Project Assessment dated January 1, 2019 included in Appendix C and found not to be fully compatible with the General Plan goals and historic preservation policies for the surrounding historic resources and historic downtown core. In July 2019, the Historic Landmarks Commission's (HLC) made comments on the earlier design which largely focused on creating a historic context with appropriate massing and materiality at the ground and podium scales. Based on the results of the 2019 Historic Resource Project Assessment and HLC's comments, the applicant revised the design of the project.

The design was modified to nod to the adjacent historic resources in mass, detail, and material. The glass façade drapes down from the tower above, whereupon the corners are pulled back to reveal a podium box clad in textured earth toned materials and an articulated pedestrian realm at the ground floor. Additionally, the tower design at the skyline scale is broken into four discrete masses to match the smaller scale of the surrounding historic structures.

Analysis of the currently proposed design is included in the Supplemental Historic Preservation Guidelines Review Memorandum dated July 9, 2020 and Addendum to the Supplemental Historic Preservation Guidelines Review dated September 10, 2020 in Appendix C. As discussed below, the currently proposed project is substantially compatible with the surrounding historic properties. The proposed project's design does not adversely impact the Plaza de César Chávez/Market Plaza, the Westin San José/St. Claire Hotel, the St. Claire Apartments/St. Clair Building, the Dohrman Building, the Valley Title Building/Hale's Department Store, the Twohy Building, or the Four Points by Sheraton/Montgomery Hotel, either directly or indirectly or by cumulative effect with other projects. The integrity of these historic resources would be preserved.

Consistency with the Draft San José Downtown Historic Guidelines and San José Downtown Design Guidelines and Standards

The City's Draft San José Downtown Historic Guidelines and San José Downtown Design Guidelines and Standards are used by the City to provide a framework for review according to the goals and policies set by the General Plan and Historic Preservation Ordinance. The guidelines provide relevant criteria for addressing new construction adjacent to historic landmarks. Additional information about the guidelines and their applicability is included in Appendix C.

The proposed building is formed of four spiraling, oblong towers connected by a central tower. The northwest and southeast towers include roof gardens. The lower levels of the building include swooping façade treatments, referred to as "veils," which are intended to relate in size, scale, and sense of materials with the lower elevations of the surrounding historic buildings, and to contribute to the pedestrian emphasis of the urban downtown. The upper five levels of the two taller towers (i.e., the northeast and southeast towers) include a subtle change of material color, which is intended to visually group the highest floors together.

The proposed building includes a curtainwall system or "glazed assembly," consisting of large panes of glass. Other materials in the finish of the building include concrete, textured precast panels, aluminum, plater, and stone. Additional description of the proposed building and materials is included in Appendix C.

2004 Draft San José Downtown Historic Design Guidelines

The currently proposed project's compatibility with the Draft San José Downtown Historic Design Guidelines is summarized in Table 4.5-1 below and detailed in Appendix C, which includes additional information about the approach to the analysis. The analysis found that the project design is substantially compatible with the lot patterns, massing, facade, rear facade, and entries guidelines.

San José Downtown Design Guidelines and Standards

The project site is not within any of the districts or areas identified in the San José Downtown Design Guidelines and Standards. The project site qualifies for Historic Adjacency as defined within Framework Plan 2.3.2.[24] The proposed building's historic context per the San José Downtown Design Guidelines and Standards includes the following buildings, defined as "adjacent":

- Plaza de Cesar Chavez
- Westin San José*
- St. Claire Apartments*
- Dohrman Building
- Valley Title Building (Structure of Merit)
- Twohy Building*
- Four Points by Sheraton*

* City Landmark

Per the San José Downtown Design Guidelines, new adjacent buildings should respect and enhance historic structure, not overwhelm them. A building with Historic Adjacency should respond to prominent characteristics and patterns of Historic Context buildings to improve the building's fit within the context. The applicable San José Downtown Design Guideline for the project is 4.2.4 Historic Adjacency.

The currently proposed project's compatibility with the San José Downtown Design Guideline 4.2.4 and its associated standards is summarized in Table 4.5-2 below. The analysis found that the project is substantially compatible with the historic context buildings in regards to the massing, facade, elements, and ground floor standards.

[24] A site has Historic Adjacency when any of these are true: a) at least 50 percent of buildings fully or partially within 200 feet are on the HRI or are eligible for listing; b) the site is within 100 feet of a Designated or Candidate City Landmark or contributor to a district or conservation area; and/or 3) the site is adjacent to a historic building on the HRI or eligible for HRI listing.

Table 4.5-1: Summary of Currently Proposed Project Compatibility with the 2004 Draft San José Downtown Historic Design Guidelines	
Design Guidelines	**Summary of Compatibility Analysis**
(a) **Lot Patterns** – Retain and respect historic lot patterns on the street. Add larger new buildings that are divided into smaller articulated building widths with multiple entrances that are similar in size and proportion to those seen traditionally.	**Compatible** – The project is compatible with the Lot Patterns Guideline. The proposed design includes the articulation of each facade into upper and lower areas and clearly divides each building width into two smaller widths with the repeated "veil" elements. The proposed building patterns at the sidewalk are similar to the widths exhibited by the historic buildings in the subarea. The pattern of retail along the streetscape is proposed to be emphasized with wrapped piers that are in scale with, and have similar spacing to, the pattern of retail of the nearby historic buildings; this detailing helps create a visual understanding of the project's compatibility with the lot patterns of the subarea.
(b) **Massing –** Retain and respect the massing of historic buildings on a street. Respect the overall heights of historic buildings, street walls, districts and areas. Add significantly higher new buildings, where appropriate, that are carefully sited in relationship to historic structures and predominant street ''walls.'' Building masses should not dwarf immediately adjacent historic buildings. Add new infill construction that respects the massing and detailing of historic buildings on the street. New building masses adjacent to lower historic resources should step down in height and street facades should turn the corner to provide articulated visible side facades in order to reduce the impact on historic buildings. Visible side facades should be set back from side property lines to allow for window openings. Add massing of new buildings that takes its cue from that of the existing historic buildings on the block. Larger buildings should be broken down into smaller masses that fit into the streetscape without overwhelming historic structures. Spatial relationships such as floor to floor heights,	**Compatible** – The proposed project, with its "veil" elements and its visual groupings of floor levels, is compatible with the Historic Massing Guideline. The proposed design, with its articulated, curved lower-level "veil" features, varies the perception of the massing. The quarter-round swoops in the design divide the lower area from the upper area, providing shadow lines that create a visual break in the overall perceived building mass. The placement of the swooping forms also accentuates the vertical divisions within the building forms, splitting each facade into paired masses. The floor plans illustrate the vertical delineation from the lower floors to the top of the building. The design also features a subtle differentiation between the "shadow box" effect of the parking garage glazing and the upper level vision glass, along with a differentiation of floor heights from garage to office level. The changes in facade detailing between the lower and the upper levels are proposed to provide a form of "articulation" that visually breaks down the massing between the lower five levels and the upper tower elements, even though it has minimal impact on the sculptural form. The revised color of the "gap" filler material at the upper five stories of the two taller towers have the effect of connecting these floors into a visually perceptible

Table 4.5-1: Summary of Currently Proposed Project Compatibility with the 2004 Draft San José Downtown Historic Design Guidelines	
Design Guidelines	**Summary of Compatibility Analysis**
basement to ground floor relationships and the proportion of building widths to heights are important considerations.	group. The dimensions these two groupings are proposed to be similar to the overall dimensions of the surrounding historic buildings, creating a perception of similar massing elements. The color change also provides a stronger visual cap for the towers, altering the perception of the towers' previously monumental verticality. This color change, in its soffit[25]-like position, would be primarily visible from the streetscape, where the issue of perceived scale is most important.
(c) **Facades** – Retain and respect the historic patterns and proportions of historic facades on a street. Add new facades that include features that are compatible in scale, material, detail and massing with other facades on the street. For example, if the street facades of most nearby buildings are vertical in proportion, taller than they are wide, then maintaining the vertical orientation of the building facade will result in a more compatible design. It is not appropriate to design new facades to create a false historical appearance.	**Compatible** – The project, with its "veil" elements and its enhanced pedestrian-scaled streetscape, is compatible with the Facades Guideline. The project design includes articulation in form, material, and detailing at the base of the building where it provides a pedestrian scale compatible with the subarea. The project design includes forms and detailing that are of a height that provides pedestrian scale, such as the curving "veil" forms that curve up to four stories in height above the ground floor, relating to the overall heights of the historic buildings. The placement of awning elements at the entrances, as well as the retail and lobby heights, relate to the historic subarea. The project design includes solid panels of textured precast material with horizontal texture and scoring within the curved areas, which relate in scale to the masonry of the historic buildings. The textured solid material would also clad the piers that echo the scale and materials of the structure systems of the historic buildings. The facade illustrates a streetscape with widths that are compatible with the pattern of retail storefronts, and storefront detailing in keeping with the complexity of the historic streetscape. The South First Street facade includes a storefront at the northeast corner, providing a "bridge" of storefront display areas and a rhythm of retail entrances along the sidewalk from the Historic Landmark Montgomery Hotel (now Four Points by Sheraton) to the St. Claire Building (now the St. Claire Apartment Building).

[25] Soffit can be defined as the underside of an architectural structure such as an arch, a balcony, or overhanging eaves.

Table 4.5-1: Summary of Currently Proposed Project Compatibility with the 2004 Draft San José Downtown Historic Design Guidelines	
Design Guidelines	**Summary of Compatibility Analysis**
	The solid materials used in the "veil" elements are compatible in overall height with adjacent historic buildings; their widths are compatible with the overall widths of the surrounding historic façades. The top of the "veil" elements echoes the height of the historic cornices[26], the base of the "veils" provides a datum line with the historic ground-floor cornices. The proposed detailing of the overlays of glazing and precast panels provides depth within the new facade, in keeping with the depth of detailing in the historic masonry buildings (and a contrasting component to the sleek modernist curtain wall with shingled glazing and its consistent patterns of shadow lines). The facade design is modern, represented by a relatively large scale of materials (e.g., large panes of glass in large wall planes and back-painted glass at the parking-garage stories). The building would not create a false sense of historicism.
(d) **Corner Elements** – Retain historic scale and relationships of corner buildings on the block and in the urban Downtown Core. Add new corner development that is compatible with and respectful of historic corner development and relationships, in terms of scale, massing, materials, texture and color.	**Not Applicable** – Because there is not a broad vocabulary of corner entrances or corner embellishments in the sub area, the historic corner element Guideline is not applicable.
(e) **Rear Facades** – Retain and respect features of existing historic rear facades and sites, taking into consideration pedestrian and loading access from secondary streets, parking lots and alleys. Add new features that are compatible with historic rear façade features and circulation patterns within existing sites and blocks.	**Compatible** – The project is compatible with the Rear Facades Guideline. The use of the rear alley for parking entrance and service access is in keeping with the patterns of rear facade design in the subarea. The design includes retail space immediately adjacent to the historic Montgomery Hotel (now Four Points Sheraton) and is shown as having "veil" elements on all four sides of the building. The scale of the lower levels, and the use of the interior of the block for services is compatible with the historic patterns in the subarea. The use of the "veil" within

[26] Cornices can be defined as an ornamental molding around the wall of a room just below the ceiling. A cornice can be a horizontal molded projection crowning a building or structure, especially the uppermost member of the entablature of an order, surmounting the frieze.

Table 4.5-1: Summary of Currently Proposed Project Compatibility with the 2004 Draft San José Downtown Historic Design Guidelines	
Design Guidelines	**Summary of Compatibility Analysis**
	the interior of the block would create visual scale and interest from the windows of the adjacent buildings along the alley.
(f) **Entries** – Retain and respect the scale of historic entries that connect the buildings to the street. Add new entries that address the historic pedestrian orientation and scale of the Downtown Core.	**Compatible** – The project, with its enhanced pedestrian-scaled entrances and increased number of retail spaces, is compatible with the Entries Guideline. The project has a compatible entry design for the proposed building. The design includes a clear demarcation of materials defining the base of the building and includes wrapped piers that punctuate a rhythm of retail and office entrances along the three primary sidewalk facades. The expansion of retail into the northeast corner of the building facing South First Street enhances the continuity of the display windows and storefronts along this important streetscape. The inclusion of awning elements, multiple entrances that alter the glazing patterns, and the placement of clad piers at the corners add to the pedestrian scale of the ground floor.
(g) **Exterior Materials** – Add new building materials that match the historic materials of masonry, terra cotta, limestone, stucco, glass mosaic, cast stone, concrete, metal, glass and wood (trim, finishes and ornament only) where possible. New materials should be compatible with historic materials in scale, proportion, design, color, finish, texture and durability. The indiscriminate use of non-compatible materials such as GFRC (glass fiber reinforced concrete), EIFS (exterior insulating finish surface/synthetic stucco), foam trim or contemporary non-contextual materials that do not have a proven durability is inappropriate.	**Compatible** – The currently proposed project, with its recessed "veil" materials and its upper-level color differentiation, is compatible with the Exterior Materials Guideline. The proposed building includes a curtainwall[27] system, consisting of large panes of glass and back-painted glass supported by "light silver metal finish" mullions. These modern materials are urban and can be expected to exhibit durability over time. The materials are shown with a modernist vocabulary and very little variation on the façades. The design includes materials that can also be found compatible with the scale and depth of the historic materials per the analysis in the Facades Guideline. These include primarily the textured panels that provide a solid element with a repetitive scale reminiscent of masonry at the height and width of the historic masonry buildings.

[27] Curtainwall- a wall that encloses the space within a building but does not support the roof, typically on a modern high-rise.

Table 4.5-1: Summary of Currently Proposed Project Compatibility with the 2004 Draft San José Downtown Historic Design Guidelines	
Design Guidelines	**Summary of Compatibility Analysis**
(h) **Vehicular and Pedestrian Access** – Retain significant historic vehicular and pedestrian access patterns of historic buildings, sites and streets. Add new access patterns where necessary that are compatible with historic structures, sites, and streets.	**Compatible** – The proposed building is compatible with this historic vehicular and pedestrian access guideline. The historic vehicular and pedestrian access patterns are respected in the proposed design. The sidewalks continue to be respected and the streets are unchanged. A service alley/parking garage entrance is proposed for the north side of the building, at an area consistent with such a use.

Table 4.5-2: Summary of Currently Proposed Project Compatibility with 2019 San José Downtown Design Guideline 4.2.4 – Historic Adjacency Standards	
Standards	**Summary of Project Compatibility Analysis**
Massing	
(a) Relate Podium Level building massing to the scale of historic context buildings.	**Compatible** – The proposed building design does not include a stepped podium mass; instead, the building is articulated with exterior elements that relate visually in dimension to the height, width, and massing scale of the historic buildings. The "veil" elements provide depth in the facade as well as emphasizing the lower floors of the building at datum lines that relate to the historic surrounding context. See also the 2004 Draft Downtown Historic Design Guidelines Massing Guideline analysis in Table 4.5-1.
(b) Design buildings with rectilinear rather than curved and diagonal forms.	**Compatible** – The building uses substantial rectilinear forms in its site plan, its ground floor design, and its detailing. The curving elements are made up of planar and orthogonal elements, compatible in size, materials, and scale with the historic context. The design can be found to be consistent with this standard. The building, although spiraling in form, interacts with the historic context buildings and streetscape with many rectilinear spatial relationships. The curvilinear forms can be considered as meeting the initial General Guideline of 4.2.4 to "Design a building with Historic Adjacency to stand on the quality of its own architecture, not as a backdrop for historic buildings."
(c) Use cornice articulation at the Podium Level at a height comparable to the heights of historic context buildings.	**Compatible –** There are no applied cornices; however, the building does include demarcations/articulation at heights analogous to the heights of elements within the historic context building designs. At the proposed building, there is a change of materials between the retail and lobby display level and the recessed "veil" area. This transition in transparency and materials corresponds with the ground-level cornice lines of the adjacent historic buildings. The proposed ground floor design also includes detailing, such as awnings[28] and signage, that support the continuity of the streetscape scale and transom heights.

[28] Awnings can be defined as a sheet of canvas or other material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, or deck.

Table 4.5-2: Summary of Currently Proposed Project Compatibility with 2019 San José Downtown Design Guideline 4.2.4 – Historic Adjacency Standards	
Standards	**Summary of Project Compatibility Analysis**
	There is a change in materials and depth of the facade at the swoop that defines the "veil" elements. This change of material relates to the overall heights of the adjacent historic buildings and their roof cornices. The subtle change in materials and window height at the top of the parking garage level approximately follows a datum line at the height of the historic context buildings. This continuity creates a connection between the historic and proposed buildings.
(d) Use Streetwall Continuity with historic Context buildings	**Compatible** – The proposed building meets the sidewalk in a way consistent with the historic context. The retail display is continuous, and the pattern of entries is similar and compatible.
Facade	
(e) Use articulation that creates façade divisions with widths similar to historic context buildings on the same side of the street	**Compatible** – The building dimensions are compatible with the historic patterns of building widths in the area. To provide a rhythm of appropriately scaled elements along San José streetscapes, this Standard requires that a proposed new building must include articulation in the facades that relate to the widths of the historic buildings adjacent. The rhythm of the width of the historic buildings is approximately one-eighth to one-sixth of the size of the long city blocks and about half of the short city blocks. The range of widths varies from 120 to 190 feet. The west elevation of the Twohy Building is the narrowest facade, at about 65 feet, but its north side is approximately 150 feet wide. The proposed building is divided into four tower elements that are accentuated at the ground level by the swooping "veil" elements. The tower bases and the divisions between the veil elements divide the building into two widths of less than 85 and less than 95 feet on South First Street and divided into two elements of less than 140 and less than 125 feet wide along San Carlos Street (with a larger than 25-foot gap to articulate this division).

Table 4.5-2: Summary of Currently Proposed Project Compatibility with 2019 San José Downtown Design Guideline 4.2.4 – Historic Adjacency Standards	
Standards	**Summary of Project Compatibility Analysis**
(f) Do not simulate historic architecture to achieve these guidelines	**Compatible** – The proposed new building does not simulate historic architecture.
(g) Place windows on facades visible from the windows of the adjacent historic context buildings.	**Compatible** – The proposed building has a service area at the proposed alley facing the landmark Montgomery Hotel (now Four Points by Sheraton) at the ground floor where the historic hotel also has a service level. The building is proposed to include shadowbox glazing at the parking garage levels above this shared service area, facing the hotel. The proposed glazing corresponds to the level of the historic building where it starts to have window, as well. The historic building would overlook a glazed exterior and "veil" design features, not a solid stucco or masonry wall.
Elements	
(h) Use some building materials that respond to Historic Context Buildings	**Compatible** – The proposed building materials do not include materials that match the materials of the surrounding historic context buildings. The proposed building is primarily clad in curtain-wall materials such as precast panels, expanses of glass, painted metal panels, etc., while the historic buildings are primarily masonry or stucco with wood windows and applied decorative trim in stone or plaster. The material texture, scale, and coloration of the solid "veil" element do respond to the solid masonry or stucco historic resources in the context area, and the display window elements also correspond to the characteristics of the ground-floor designs of the historic buildings.
(i) The new materials should be compatible with historic materials in scale, proportion, design, finish, texture, and durability.	**Compatible** – The proposed building has materials that are compatible in scale, proportion, design, finish, texture, and durability with the adjacent historic buildings. The recessed "veil" elements have smaller-scale repetitive texture and a solid appearance, compatible with masonry; the ground-floor display elements are in scale and materials similar to the retail levels of the historic buildings; the wrapped piers provide a similar framework of solid materials. The overall area of proposed materials, such as the width of

Table 4.5-2: Summary of Currently Proposed Project Compatibility with 2019 San José Downtown Design Guideline 4.2.4 – Historic Adjacency Standards	
Standards	**Summary of Project Compatibility Analysis**
	each "veil" element and the grouping of the upper tower levels, are proportionate to the dimensions of the historic buildings in mass. The proposed building materials are designed to have an "urban" and durable feel, including some use of shadow lines and depth of façade detailing. The proposed building includes modern materials commensurate with the quality of materials used in the historic context buildings. The proposed project is compatible with this aspect of the Standards.
Ground Floor	
(j) Space pedestrian entries at similar distances to Historic Context building entries.	**Compatible** – The proposed design is compatible with the historic context. Each of the historic buildings features a series of retail storefront bays separated by masonry or solid piers; these are interspersed with either store entrances, restaurant entrances, or lobby entrances. The entry pattern of the proposed building includes multiple frames for ground floor activities and multiple (two to four) entrances per facade.
(k) Create a ground floor with a similar floor to ceiling height as nearby Historic Context buildings.	**Compatible** – The proposed floor-to-ceiling height at ground level is related to the ground floor designs of the historic context buildings. The top of the proposed transom window, the line that corresponds to the top of the floor and provides transition to the upper stories, aligns with the base of the ground-floor cornice line of the Four Points by Sheraton (Montgomery Hotel) and appears almost exactly to match the height of the block-long cornice line that spans the ground floors of the St. Claire Apartments (formerly St. Claire Building) and Westin San José (formerly St. Claire Hotel).

Impacts to Historic Resources/Integrity Analysis

As discussed above, the proposed design is compatible with the San José Design Guidelines with regard to "infill" projects in the downtown. This indicates that the design of the project has a size, massing, scale, function, and materials generally in keeping with the historic buildings in the immediate area. Using that analysis, further conclusions can be made regarding the potential impact of a proposed project on nearby historic resources.

An integrity analysis is a significant component of the City of San José design review process. The integrity analysis is tied into the criteria for NRHP and CRHR eligibility; a project that might impact the integrity of a historic resource would be impacting the significance of that resource. According to the California Office of Historic Preservation Technical Assistance Series #6:

> Integrity is the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance described above and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It 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.

The following analysis addresses how the project might preserve or impact the historic integrity of the historic resources identified in the area. The analysis utilizes the seven aspects of historic integrity indicated by the NRHP and State of California's definition of authenticity of a resource. Some of the aspects of integrity cannot be applied to projects on parcels adjacent to historic resources, including the aspects of location, artisanship, and materials because these aspects are not proposed for alteration of separate properties. For the purposes of understanding the impacts of a proposed project on a neighboring property, the aspects of design, setting, feeling, and association are reviewed.

- **Design** – The project would not have a direct physical impact on the integrity of the designs of any of the historic resources. Because the historic resources are adjacent to and near the project, rather than sharing the site, the designs of the buildings on nearby parcels would remain physically untouched.

  With regard to the visual understanding of the design, the analyses using the Draft City of San José Downtown Historic Design Guidelines and the San José Downtown Design Guidelines and Standards indicate that the size, massing, patterns of entrances, materials, scale, detailing, and separation of the buildings would be compatible; therefore, the historic designs of the Four Points by Sheraton (Montgomery Hotel), Twohy Building, Westin San José (St. Claire Hotel), St. Claire Apartments (St. Claire Building), and Dohrman Building, as well as the design understood to be encapsulated in the Valley Title Building (Hale's Department Store), would not be overwhelmed, diminished, or made to appear out of scale or balance. Therefore, the integrity of the designs of the historic resources would be preserved.

- **Setting** – The proposed project would alter the current setting of the nearby historic resources, but the historic resources have already lost their original settings in this locale. When the historic resources were first built, this area was developing as a dense commercial district, replacing residences that had scattered the area in the 19th century. The buildings shared party walls and formed a continuous streetscape along South First Street. During the later part of the 20th century, buildings were demolished for urban renewal and redevelopment efforts. The proposed project site has been vacant for about 20 years, and was largely vacant prior to that, only containing one mid-rise building with a smaller footprint, surrounded by parking.

  With little built historical context remaining at this site, the proposed project would not have a new adverse impact on the settings of the various historic resources in the area. The reestablishment of a commercial streetscape is a positive outcome on the setting of the historic buildings. The design of the proposed lower levels responds to the heights, scales, and materials of the historic commercial buildings, creating a compatible pedestrian setting.

- **Feeling** – The surrounding historic resources feature masonry or stucco facades with decorative bas-relief[29], vertical inset windows, and other historic design elements that provide balanced and rich compositions. Each building has its own feeling that embodies a commercial mid-rise building of its era. Each building in the area is distinctive and conveys strong connotations. Each can "hold its own" in contrast with a project that conveys a feeling of 21st-century modernism. The integrity of feeling of the historic resource would be preserved.

- **Association** – The associations of the historic buildings would continue to be represented adjacent to and nearby the proposed construction. The proposed construction would not diminish the architectural beauty or historic narratives that are embodied in these landmarks. The historic integrity of the significance of each resource, therefore, would be preserved.

Although the setting would be altered, the historic setting had been previously lost with regard to the significance of the resources over time; the proposed design is compatible in scale and detailing at the streetscape; and the feelings and associations of the historic resources would remain intact. Therefore, the proposed project would not impact the historic integrity of the resources in the area. **(Same Impact as Approved Project [Less than Significant Impact])**

Construction-Related Impacts

The impacts of project construction on historic resources is discussed in detail in Section 4.13 Noise and concluded that vibration impacts would be less than significant with the implementation of measures identified in and required by the Downtown Strategy 2040 FEIR.

Impact CUL-1: The project would result in significant construction-vibration related impacts to nearby historic resources.

[29] Bas-relief can be defined as a type of art in which shapes are cut from the surrounding stone so that they stand out slightly against a flat surface, or a work of art done in this way.

Mitigation Measure: See mitigation measure MM NOI-3.1.

With the implementation of mitigation measure MM NOI-3.1, which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR, project-related construction-vibration impacts would be reduced to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

Cumulative Impacts to Historic Resources

There is no identified process or set of guidelines within the City of San José policies for evaluating the cumulative historic impact of recent, proposed, and future projects in an area. The concept of cumulative impact, according to nationally known Historic Preservation Consultant Thomas F. King, is as follows:

- Look for patterns of development that are happening in the area and identify how the proposed project relates to these patterns
- Determine whether the relationship of the project to the area is positive or negative or both, and consider ways to accentuate the positive and eliminate the negative.

Patterns of Development in the Area and Project's Relationship to the Pattern

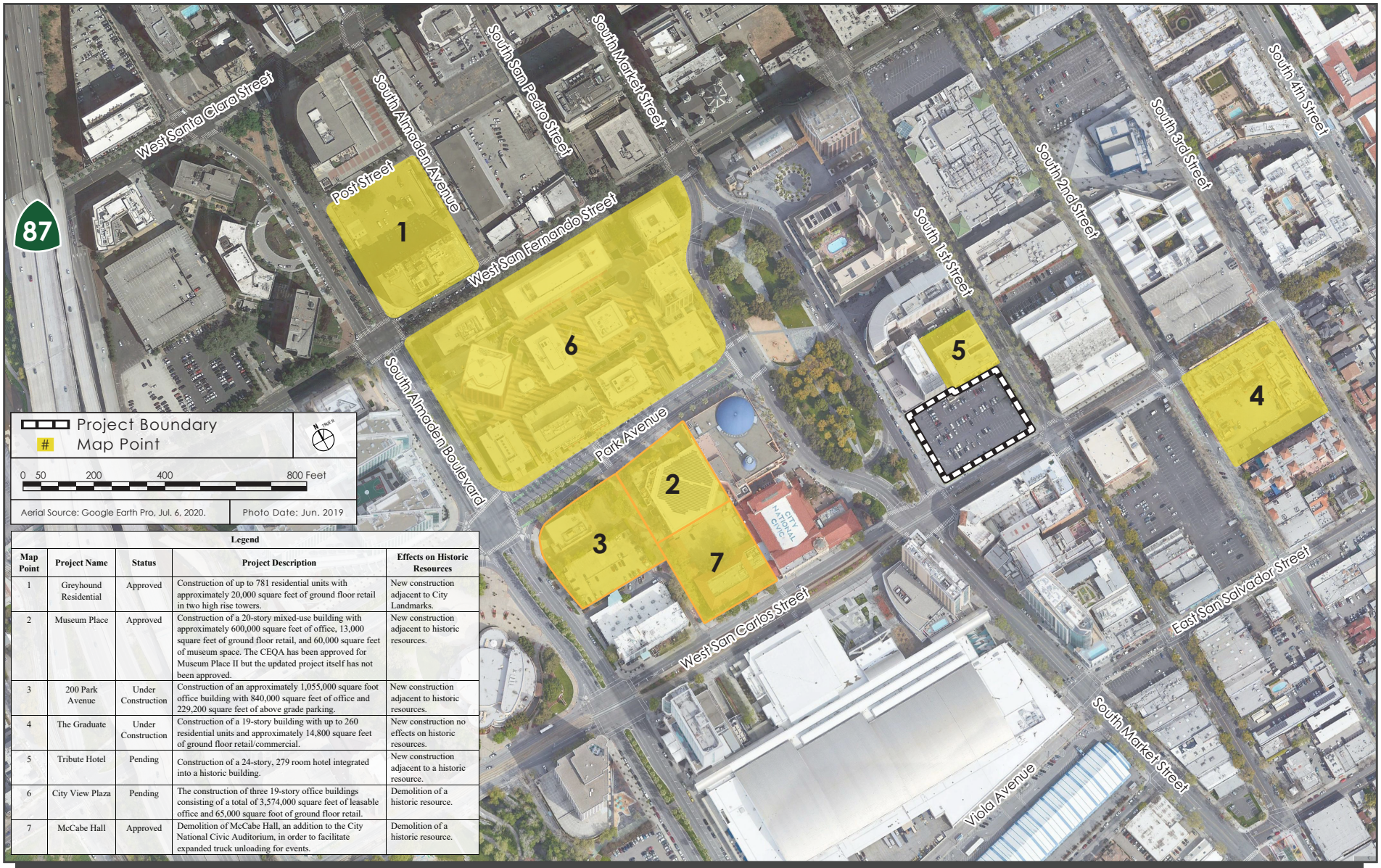
In keeping with the City's General Plan, the currently projected pattern of development in downtown San José is to encourage intensification and very high density. Developers have responded, proposing large, high-rise buildings for most infill projects.

Existing historic resources could be threatened by demolition (for intensification of use) or the potential overwhelming scale of larger buildings adjacent to traditionally smaller historic designs or by inadequately compatible large-scale additions. Smaller historic buildings, with detailed historic scale of materials and elements, might be sandwiched by much larger buildings with large-scale façade compositions or overwhelmed by additions that are not compatible. Adjacent large buildings with large-scaled detailing could lead to a diminishment of the historic resources' historic integrity of design, setting, feeling, and associations. The project would be joining other new high-rise construction built or currently proposed in the identified subarea (refer to Figure 4.5-2).

Proposed Demolitions and Site Modification

The CityView Plaza (see #6 on Figure 4.5-2) project includes considerable demolition of existing buildings, including the demolition of buildings that meet the criteria of historic resources. In addition, the McCabe Hall project (see #7 on Figure 4.5-2) proposes the demolition of the addition to the San José City Landmark Civic Auditorium complex. Within the immediate surroundings of the proposed project, and especially along North First Street streetscape, no currently foreseen project is proposing to demolish a historic landmark structure, site or district.

The project is proposed to be developed on a vacant lot and does not include demolition of a resource. The Tribute Hotel (see #5 on Figure 4.5-2) is approved to be located on the same parcel as the historic landmark Montgomery Hotel (now Four Points by Sheraton), but no demolition is proposed. The Tribute Hotel project will preserve the massing and materials of the historic building. In the past, the Montgomery Hotel itself was proposed for demolition but was relocated instead.



Legend

Map Point	Project Name	Status	Project Description	Effects on Historic Resources
1	Greyhound Residential	Approved	Construction of up to 781 residential units with approximately 20,000 square feet of ground floor retail in two high rise towers.	New construction adjacent to City Landmarks.
2	Museum Place	Approved	Construction of a 20-story mixed-use building with approximately 600,000 square feet of office, 13,000 square feet of ground floor retail, and 60,000 square feet of museum space. The CEQA has been approved for Museum Place II but the updated project itself has not been approved.	New construction adjacent to historic resources.
3	200 Park Avenue	Under Construction	Construction of an approximately 1,055,000 square foot office building with 840,000 square feet of office and 229,200 square feet of above grade parking.	New construction adjacent to historic resources.
4	The Graduate	Under Construction	Construction of a 19-story building with up to 260 residential units and approximately 14,800 square feet of ground floor retail/commercial.	New construction no effects on historic resources.
5	Tribute Hotel	Pending	Construction of a 24-story, 279 room hotel integrated into a historic building.	New construction adjacent to a historic resource.
6	City View Plaza	Pending	The construction of three 19-story office buildings consisting of a total of 3,574,000 square feet of leasable office and 65,000 square foot of ground floor retail.	Demolition of a historic resource.
7	McCabe Hall	Approved	Demolition of McCabe Hall, an addition to the City National Civic Auditorium, in order to facilitate expanded truck unloading for events.	Demolition of a historic resource.

PROJECTS CONSIDERED IN THE CUMULATIVE HISTORIC ANALYSIS | FIGURE 4.5-2

To-date the identified adjacent historic resources are highly visible and have enjoyed long-time community support, therefore, it is expected that they would likely be preserved rather than demolished. In other areas of the downtown, there has been pressure to demolish (or sometimes relocate) historic resources. These have typically impacted smaller-scale residential buildings; however, the CityView Plaza project would demolish large-scale buildings in a plaza setting and replace them with denser, taller buildings. Future proposed demolition of the historic buildings near the project site is not inconceivable, but the proposed infill project, by being located on a vacant site, does not add to that potential.

Proposed Scale of Construction on a Cumulative Level

The proposed project is immediately adjacent to the historic Montgomery Hotel (now Four Points by Sheraton). The historic hotel has an approved high-rise addition. The historic building and its proposed new wing are flanked by the project and the Fairmont Hotel and the Fairmont Annex. The proposed project, Fairmont Hotel, Fairmont Annex, and Tribute Hotel addition are all high-rise structures. The Casa del Pueblo Apartments from 1976 is over 10 stories tall. There is the potential for additional large buildings to be demolished, as discussed above.

Across the South First Street from the project site, the low-rise Federal Building (not yet 50 years old) could potentially be demolished and replaced by a tall building, as could the former Camera 12 theaters building that wraps the Twohy Building. The parking area behind the Valley Title Building (formerly Hale's Department Store) has been discussed a high-rise project. It is possible, although not currently anticipated, that high-rise additions might be placed into the centers of some of the historic buildings that have no vacant property for intensification.

The cumulative effect of all this construction can be mitigated if proposed projects are designed to be compatible with the historic subarea and contiguous historic buildings. The key to compatible infill construction adjacent to a historic resource is for the new building to respect and reaffirm historic patterns. The size of an adjacent development is only one component of design compatibility. If the historic buildings represent a pattern of pedestrian-scale retail storefronts and lively sidewalk interactions, then proposed development should include these values in its design. If the historic buildings represent a pattern of elegant materials and ornament, proposed development should provide new designs that are current representations of elegance and design complexity. If an historic neighborhood features strong front facades and a continuous streetscape plane, then new buildings should be respectful of these established design patterns.

The San José Guidelines for infill, as well as the Secretary of the Interior's Standards for the Treatment of Historic Properties for additions, provide a framework for review of proposed projects. These guidelines and standards provide review of lot-size patterns; overall massing; exterior materials; scale of detail of front and rear façades and corner elements; entry patterns; vehicular and pedestrian access patterns; massing articulation with regard to the scale of adjacent historic buildings; the use of rectilinear forms in the downtown; cornice articulation and datum lines; streetwall continuity; and scale of window patterns. These reviews should identify how each new project preserves the historic integrity of the resources on the site with, adjacent to, or nearby the proposed project. Assuming rigorous reviews and responsive developers, infill projects of a variety of densities and sizes can be designed to be compatible with historic resources.

Relationship of the Project to the Area

The community has expressed concern about the relationship between the landmark Montgomery Hotel (now Four Points by Sheraton) and the projects and existing buildings that flank it. Because the historic hotel building is undergoing a vertical expansion project, the hotel "presence" will be heightened and enlarged, rather than being compressed between two new projects. With its approved addition, the hotel is expected to be perceived as a composition with 24 stories in total. The historic base and its tall addition, with compatible detailing and scale, can be perceived as in balance with the tall new construction that will surround it. The proposed project includes many compatible design elements that relate to the scale, streetscape, complexity of pedestrian experience, and is compatible with the historic resources in the area. The proposed building would infill a former gap in the continuity of the streetscape and provide pedestrian connection between historic landmarks north and south of San Carlos Street.

The critical character-defining features of the identified historic resources bring decorative ornament, high-quality "urbane" materials, and balanced facade compositions to the downtown. They have cornices at similar heights and provide a pattern of pedestrian-scaled retail storefronts along the streetscapes. They embody historical and architectural associations and provide community value. Determining the relationship of a proposed project to the area, therefore, requires analysis based on these values. This analysis is embodied in the two sets of City of San José Guidelines and the integrity analysis required as part of the environmental review. These guidelines are analyzed within this supplemental memorandum as being compatible, which is a positive outcome for the area.

As exemplified in the discussion above, the project would not result in a significant cumulative impact to historic resources.

The Downtown Strategy 2040 FEIR disclosed that the implementation of the Downtown Strategy could result in the demolition and major alteration of historic era buildings within the downtown and could result in the destruction of the area's historic fabric. It was concluded that implementation of Downtown Strategy 2040 would result in a significant cumulative impact to historic resources.[30] As supported by the discussion above, the project's cumulative contribution to this impact is not considerable. **(Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

As discussed in Section 4.5.1.2 Existing Conditions, the project site has a moderate to high sensitivity for Native American materials and deposits and a high potential for historic-era archaeological deposits and cultural materials dating to use of this area beginning in the 1820s. As a result, any subsurface archaeological resources on-site could be disturbed during project construction.

[30] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 117.

Impact CUL-2: The project would result in significant impacts to archaeological resources (if found on-site) during construction.

Mitigation Measure:

MM CUL-2.1: Prior to issuance of any grading or building permits, a qualified archaeologist shall complete a subsurface exploration commensurate with ground disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist trained in both local prehistoric and historic archaeology, who is also familiar with Hispanic-period features, land use patterns, and their cultural materials. To explore for the potential of Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts, or until the soils and sediments are identified as reliably culturally sterile.

If any ground disturbing activities are required for other environmental concerns or for potholing to identify previous utilities and their removal, an archaeological monitor shall be required at all times.

If archaeological deposits or features appear potentially eligible to the CRHR are identified during any stage of exploration or monitoring, they shall be covered with a metal construction plate and an archaeological research design and work plan shall be prepared. This plan shall be approval by the Director of PBCE or Director's designee, before the archaeological deposits or features can be excavated. If unearthed, all features, archaeological deposits, and cultural material shall be excavated according to current archaeological standards detailed in the approved research design and treatment plan.

All features, archaeological deposits, and cultural material shall be cleaned, analyzed, and evaluated for their eligibility to the CRHR. An archaeological report shall be prepared discussing methods, historical research (if appropriate), and documenting all finds. The report shall be submitted to and approved by the Director of PBCE or Director's designee. If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation.

The applicant is fiscally responsible for the curation of all artifacts deemed archival by current archaeological standards at History San José, with the exception of any human remains and associated burial goods. The archaeologist shall prepare the artifacts and dietary remains in archival quality bags with artifact identification tags, provide two copies of a final artifact catalog for the items submitted, and two copies of the final archaeological report. Any other additional requirements by History San José must be addressed. Only when all of these mitigations are completed would the City and the applicant be in compliance with CEQA.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR and site-specific archaeological resources report, the project with the implementation of the above mitigation measure (which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) would not result in significant impacts to unknown, buried archaeological resources by requiring subsurface exploration and monitoring (if appropriate), evaluation of finds, and proper treatment of finds. The project, therefore, would not result in new or substantially more severe impacts to archaeological resources than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

As mentioned above, the project site has a moderate to high potential for buried cultural resources. Human graves are often associated with prehistoric occupation sites. As a result, human graves could be disturbed on-site during excavation.

Standard Permit Condition:

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of PBCE or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site;
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR and site-specific archaeological resources report, the project with implementation of the above standard permit condition would not result in significant impacts to buried human remains if encountered during construction by coordinating with the County Coroner, NAHC, and Native American descendants (as appropriate) and treating the remains properly. The project, therefore, would not result in new or substantially more severe impacts to human remains (if discovered on-site) than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2008, Executive Order S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[31] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[32]

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

[31] California Building Standards Commission. "California Building Standards Code." Accessed January 21, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[32] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed January 21, 2020. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[33]

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to energy and are applicable to the project.

General Plan Policies – Energy	
Green Building Policy Leadership	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Energy Conservation and Renewable Energy Use	
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Water Conservation and Quality	
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.

[33] California Air Resources Board. "The Advanced Clean Cars Program." Accessed February 27, 2020. https://www.arb.ca.gov/msprog/acc/acc.htm.

General Plan Policies – Energy	
Waste Diversion	
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Waste Reduction	
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
Reduce Consumption and Increase Efficiency	
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Responsible Management of Water Supply	
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
Water Conservation	
MS-18.5	Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.

General Plan Policies – Energy	
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
Neighborhood Serving Commercial	
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
Transportation	
TR-1.4[34]	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

San José Sustainable City Strategy

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

San José Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

[34] TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.[35] Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.[36] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

The project site is currently developed with a parking lot and has little, if any, energy demand.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[37]

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services to the downtown area. In 2018, approximately 1.4 percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[38] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, and the industrial sector used 21 percent.[39] Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[40]

[35] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed February 27, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[36] Ibid.
[37] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed February 27, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[38] California Gas and Electric Utilities. 2018 *California Gas Report.* Accessed February 27, 2020. https://www.socalgas.com/regulatory/documents/cgr/2018_California_Gas_Report.pdf
[39] California Energy Commission. "2017 Natural Gas Market Trends and Outlook." Accessed February 27, 2020. https://efiling.energy.ca.gov/getdocument.aspx?tn=222400.
[40] California Energy Commission. "Natural Gas Consumption by County." Accessed February 27, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[41] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[42] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.[43,44]

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant energy impact, as described below.

[41] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed February 27, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[42] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.
[43] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed February 27, 2020. http://www.afdc.energy.gov/laws/eisa.
[44] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed February 27, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Construction

The proposed project is estimated be constructed over a period of 34 months. Construction of the project would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition and grading), and construction of the building and other improvements. The project would also comply with the City's Construction and Demolition Diversion Program.

Future development under the proposed project is required to implement BAAQMD BMPs discussed in Section 4.3 Air Quality to restrict equipment idling times and require signs be posted on the project site reminding workers to shut off idling equipment, thus reducing the potential for energy waste. The project is also required to participate in the City's Construction and Demolition Diversion Deposit Program, which ensures at least 75 percent of construction and demolition debris is recovered and diverted from landfills. Therefore, the project construction activities would not use fuel or energy in a wasteful manner.

Based on the above discussion, the project would not result in new or substantially more severe energy impacts during construction than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

The proposed project would be required to be built in accordance to CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Occupation and operation of the project would consume energy for multiple purposes, including building heating and cooling, lighting, and appliance use. Operational energy also includes gasoline consumption from vehicles traveling to and from the project sites. The net increase in energy use from the project is shown below in Table 4.6-1.

As shown in Table 4.6-1, the project would result in a net increase in energy demand compared to existing conditions. The project would not represent a wasteful or inefficient use of energy resources because the project is required to comply with the City's Green Building Program, Title 24, and CALGreen requirements to reduce energy consumption.

In addition, the design and location of the project would reduce gasoline usage given the project's proximity to existing transit, proposed mix of uses, and implementation of a TDM program (refer Section 4.3.2 Air Quality under checklist question b)).

Table 4.6-1: Estimated Existing and Project Energy Usage			
	Electricity Use (GWh)	**Natural Gas Use (kBtu)**	**Gasoline (gallons per year)**
Enclosed Parking with Elevator	2.7	0	0
General Office Building	11.2	10,267,400	298,141
Strip Mall	0.2	38,809	16,995
Total	14.1	10,306,209	315,136

Notes: The estimated gasoline demand is based on the estimated VMT of 7,423,723 for the general office building and 423,180 for the strip mall, and an average fuel economy of 24.9 mpg.
GWh = gigawatt per hour
kBtu = kilo-British thermal unit

Based on the above discussion, the project would be built and managed in order to maximize energy efficiency, and inefficient or wasteful use of energy is not expected to occur as part of any development under the project. The project would not result in new or substantially more severe operational energy impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The project is a part of the capacity build-out expected under the Downtown Strategy 2040. The project is required to conform to General Plan policies and existing regulations (refer to Section 4.6.1.1 Regulatory Framework), which promote the use and expansion of renewable energy resources, including solar voltaic, solar hot water, wind, and biogas or biofuels. By conforming to applicable General Plan policies related to renewable energy and energy efficiency, and the Green Building Ordinance, the project would not preclude the City from meeting local or state renewable energy or energy efficiency goals. In addition, as discussed in Section 4.3 Air Quality, the project is consistent with the 2017 CAP which includes measures to reduce energy (including gasoline fuel) consumption. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based on a geotechnical investigation report completed for the project by Rockridge Geotechnical, dated June 24, 2019. A copy of this report is included in Appendix D of this Initial Study.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

San José Municipal Code

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geology and soils and are applicable to the project.

General Plan Policies – Geology, Soils, and Seismic Hazards	
Emergency Management	
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
Seismic Hazards	
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

General Plan Policies – Geology, Soils, and Seismic Hazards	
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-3.3	The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
Geologic and Soil Hazards	
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.7.1.2 *Existing Conditions*

Seismic and Seismic-Related Hazards

The San Francisco Bay Area is recognized by geologist as one of the most seismically active regions in the United States. The major active faults in the project area are the Calaveras (approximately eight miles northeast of the site), Hayward (approximately nine miles northeast of the site), and San Andreas (approximately 12 miles southwest of the site) faults. Given the proximity of faults to the project site, strong to very strong ground shaking is expected to occur at the project site.[45] Strong shaking during an earthquake can result in ground failures, such as those associated with soil liquefaction and lateral spreading.

The project site is located within an area of San José designated as a potential liquefaction hazard zone. Liquefaction is the temporary transformation of loose, saturated granular sediments from a solid state to a liquefied state as a result of seismic ground shaking. Analysis of soils on-site indicate thin layers of potentially liquefiable soil underlying the site generally between depths of 25 and 35 feet. The non-liquefiable soil layers at the site are thick and the potentially liquefiable layers are thin, such that the potential for surface manifestations from liquefaction is low.[46]

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying material toward an open face such as a body of water. Given the relatively flat topography of the site and the absence of a free face, there is no potential for lateral spreading on-site.[47] Also, there is no risk of land sliding due to the flat topography of the site.

Seismically induced ground failure can cause damage to structures and paved areas. The project site is not within an Earthquake Fault Zone, as defined by the Alquist-Priolo Earthquake Fault Zoning Act, and no known active or potentially active faults exist on the site. The risk of surface faulting and secondary ground failure on-site is very low.[48]

On-Soil Characteristics

The project site is blanketed by Holocene-age alluvium (Qha). The alluvium primarily consists of layers of clay with varying sand and gravel content to a maximum depth explored of 158 feet below ground surface (bgs). Soil borings advanced on-site indicate the site has three to five feet of fill consisting of medium dense clayey sand to medium stiff to stiff sandy clay. The fill is underlain by soft to stiff clay and sandy clay and loose to medium dense silty sand to a depth of approximate 15 feet bgs. Below a depth of 15 feet bgs to an approximate depth of 50 feet bgs, the clay becomes medium stiff to very stiff while the sand and gravel layers are generally medium dense. Based on analysis of soil samples on-site, the soils on-site have a low to moderate expansion potential.[49] Additional details regarding on-site soils is included in Appendix D.

[45] Rockridge Geotechnical. *Draft Geotechnical Investigation Report Proposed Block 8 Office Building, 282 South Market Street, San José, California.* June 24, 2019. Page 9.
[46] Ibid, Page 11.
[47] Ibid.
[48] Ibid, Page 12.
[49] Ibid, Figure B-1.

Paleontological Resources and Unique Geologic Features

As discussed in the Downtown Strategy FEIR, future development has a low potential to impact undiscovered paleontological resources based on the age and type of surface soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials. Activities that involve substantial excavation (such as construction for below-ground parking garages) have a higher potential for encountering paleontological deposits.[50]

No unique geologic features, such as serpentine rock outcrops and boulders, pinnacles, or tafoni sandstone are located on-site.

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Directly or indirectly cause potential 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 (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
- Strong seismic ground shaking?	☐	☐	☐	☒	☐
- Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
- Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
c) 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?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐

[50] Ibid, Page 107.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) 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?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant geology and soils impacts, as described below.

a) Would the project directly or indirectly cause potential 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; or landslides?

As described in Section 4.7.1.2 Existing Conditions, the project site is not within an Earthquake Fault Zone and no known active or potentially active faults exist on the site. There is no potential for landslides and very low potential for ground failure. Strong seismic ground shaking is anticipated given the proximity of the site to active faults (which the below standard condition would address to ensure less than significant impacts), and there is the potential for liquefaction is low.

Consistent with General Plan policies and current standard practices in the City of San José, the project shall implement the below standard permit condition.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site (including expansion potential) and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

Consistent with the conclusion in the Downtown Strategy FEIR, the project with the implementation of the above standard permit condition would not result in significant seismic and seismic-related impacts.[51] The project would not result in new or substantially more severe seismic and seismic-related impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in substantial soil erosion or the loss of topsoil?

Development of the project would expose soils to wind and stormwater during construction and post-construction periods. Grading and ground disturbance increases the potential for accelerated erosion by removing protective vegetation or cover. Consistent with the Downtown Strategy FEIR, the project shall comply with existing regulations (including the National Pollution Discharge Elimination System General Construction Permit and City Municipal Code) and implement the below standard permit conditions.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

The project would also be required to complete an erosion control plan for any grading occurring between October 1 and April 30. The erosion control plan shall be reviewed and approved by the City and ensure that grading operations do not impact local creeks and storm drainage systems.

Consistent with the conclusion in the Downtown Strategy FEIR, the development of the project in compliance with existing regulations and with the implementation of the above standard permit conditions would prevent substantial erosion during site development activities. The project would not result in new or substantially more severe soil impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project 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?

As described in Section 4.7.1.2 Existing Conditions, there is no potential for landsliding or lateral spreading on-site. As discussed under checklist question a), the potential for liquefaction on-site is low and the project would not result in significant liquefaction impacts with the implementation of the standard permit condition identified.

[51] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 138.

Valley Water actively monitors for land subsidence through surveying, groundwater elevation monitoring, and data from compaction wells. Valley Water reduces the potential for land subsidence throughout the Santa Clara Valley by recharging groundwater basins with local and imported surface water. Valley Water also manages "in-lieu" recharge programs, including treated water deliveries, water conservation, and water recycling that reduce groundwater demand. The project would develop urban uses connected to the City's water system and would not require groundwater extraction wells on-site. Consistent with CALGreen, the project would implement water efficiency measures including low flow fixtures, to reduce regional groundwater demand.

Based on the above discussion, the project would not result in new or substantially more severe landslide, lateral spreading, subsidence, or liquefaction impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

As discussed in Section 4.7.1.2 Existing Conditions, on-site soils have a low to moderate expansion potential. As required as a standard permit condition under checklist question a), the project would be built in conformance with a site-specific, design-level geotechnical report (which is required by the Downtown Strategy FEIR and City policy) and applicable regulations (including the CBC) that include regulations that govern the construction of structures in the state to would reduce impacts from expansive soil to a less than significant level with the implementation appropriate design and construction techniques.[52] The project would not result in new or substantially more severe expansive soil impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project 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 project would connect to the existing sanitary sewer system. No septic tanks or alternative wastewater disposal systems are required for the project. The project would not result in new or substantially more alternative wastewater disposal system impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (No Impact)]**

[52] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 138.

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

As discussed in Section 4.7.1.2 Existing Conditions, no unique geologic features (such as serpentine rock outcrops and boulders, pinnacles, or tafoni sandstone) are located on-site.

There is a potential for construction activities (including excavation of the below ground parking garage) may result in the accidental destruction or disturbance of paleontological sites. The project would implement the below standard permit conditions to reduce impacts to paleontological resources, if encountered.

Standard Permit Conditions:

- The City shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.
- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of PBCE or Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or Director's designee.

Consistent with the conclusion in the Downtown Strategy FEIR, the project in conformance with General Plan policies and with the implementation of the above standard permit conditions would not result in significant impacts to paleontological resources.[53] Based on the above discussion, the project would not result in new or substantially more severe impacts to paleontological or unique geological resources than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[53] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 109.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere are commonly referred to as GHGs. The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential and is measured in units of CO_2 equivalents (CO_2e). Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project.

General Plan Policies – GHG Emissions	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-2.1	Promote the Circulation Goals and Policies in this Plan. Create streets that promote pedestrian and bicycle transportation by following applicable goals and policies in the Circulation section of this Plan. 1. Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. 2. Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian-activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles. 3. Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.

General Plan Policies – GHG Emissions	
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
CD-3.4	Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.
CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.
CD-3.8	Provide direct access from developments to adjacent parks or open spaces and encourage residential development to provide common open space contiguous to such areas.
CD-3.10	Increase neighborhood connectivity in new development by providing access across natural barriers (e.g., rivers) and man-made barriers (e.g., freeways).
CD-5.1	Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
LU-5.5	Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.
LU-9.1	Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas. Consistent with Transportation Policy TR-2.11, prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities, that do not provide through- and publicly-accessible bicycle and pedestrian connections.

General Plan Policies – GHG Emissions	
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-2.11	Prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities that do not provide through and publicly accessible bicycle and pedestrian connections. Pursue the development of new through bicycle and pedestrian connections in existing cul-de-sac areas where feasible.
TR-2.18	Provide bicycle storage facilities as identified in the San José Bicycle Master Plan.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-6.7	As part of the project development review process, ensure that adequate off-street loading areas in new large commercial, industrial, and residential developments are provided, and that they do not conflict with adjacent uses, or with vehicle, pedestrian, bicycle, or transit access and circulation.
LU-16.4	Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.
MS-2.8	Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers.
TR-7.1	Require large employers to develop and maintain TDM programs to reduce the vehicle trips generated by their employees.
LU-3.6	Prohibit uses that serve occupants of vehicles (such as drive-through windows) and discourage uses that serve the vehicle (such as car washes and service stations), except where they do not disrupt pedestrian flow, are not concentrated, do not break up the building mass of the streetscape, and are compatible with the planned uses of the area.

San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- CDD Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development under the Downtown Strategy 2040 would be subject to this policy.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

City of San José Reach Building Code

In 2019, the San José City Council Approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San José. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is currently developed and used as a parking lot. GHGs generated by the site are associated with the vehicles traveling to and from the site.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would result in a less than significant GHG emissions impacts, as described below.

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

Construction

Short-term GHG emissions from the construction phase of the project would consist of on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. The air quality assessment for the proposed project (refer to Appendix A) calculated emissions associated with project construction to be approximately 4,640 MT of CO_2e for the total construction period.[54] BAAQMD recommends the incorporation of BMPs to reduce GHG emissions during construction where feasible and applicable. BMPs assumed to be incorporated into construction of the project include recycling or reusing at least 75 percent of

[54] Illingworth & Rodkin, Inc. *Block 8 Air Quality and Greenhouse Gas Emissions Assessment.* October 15, 2020. Page 29.

construction waste or demolition materials and restricting the idling of construction equipment (see required measure under checklist question d) in Section 4.3 Air Quality).

There is nothing atypical or unusual about the project's construction. In addition, the project's GHG construction emission would be temporary and would not result in a permanent increase in emissions. The project would also implement BMPs that would reduce GHG emissions during construction. For these reasons, the project would not result in new or substantially more severe construction-related GHG impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

GHG emissions resulting from the Downtown Strategy 2040 build-out, a portion of which is represented by the project (approximately 3,360 MT), were compared to a threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, for the purposes of this analysis, a "Substantial Progress" threshold of 2.6 MT CO_2e per service population per year is used and based on the 2030 GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.[55]

Based on the Downtown Strategy 2040 FEIR, full build-out of the Downtown Strategy 2040 Plan would result in annual emissions of 2.09 MT of CO_2e per service population, which would not exceed the 2030 threshold of 2.6 MT CO_2e per service population annually. Development from full build-out in 2040 would be 2.21 MT of CO_2e per service population annually, exceeding the 2040 "Substantial Progress" threshold of 1.7 MT of CO_2e per service population annually, resulting in a significant unavoidable GHG impact.

For informational purposes, if the proposed project was evaluated individually, it would be result in 0.92 MT of CO_2e per service population annually – which is below the 2030 threshold (2.6 MT of CO_2e per service population annually) and 2040 threshold (1.7 MT of CO_2e per service population annually).

While 2040 emissions from the build-out of Downtown Strategy 2040 (which includes the proposed project) would be above the 2040 substantial progress threshold, the project includes TDM measures to further reduce overall emissions generated by the project (as described in Section 3.3 Green Building and Transportation Demand Management Measures). As detailed in the Downtown Strategy 2040 FEIR, operational emissions from the Downtown Strategy 2040, including the proposed development, would meet the 2030 threshold but would not meet the 2040 threshold.

As discussed in the Downtown Strategy 2040 FEIR, achieving the substantial GHG emissions reductions needed to meet the 2040 threshold would require an aggressive multi-pronged approach that includes policy decisions and additional emission controls at the federal and state level, and new and substantially advanced technologies that cannot be anticipated or predicted with any accuracy at

[55] Association of Environmental Professionals. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. October 2016.

this time.[56] It will also require substantial behavioral changes to reduce single occupant vehicle trips, especially to and from work places. Future policy and regulatory decisions by other agencies (such as the California ARB, PUC, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore, cannot be relied upon as feasible mitigation strategies. Given the uncertainties about the feasibility of achieving the needed 2040 emissions reductions, the Downtown Strategy 2040's contribution to greenhouse gas emissions and climate change for the 2040 timeframe was determined to be significant and unavoidable.[57] The project would not result in new or substantially more severe operational GHG impacts than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

2017 Clean Air Plan

The Downtown Strategy 2040 supports the goals of the 2017 CAP through incorporation of the following:

- Reducing motor vehicle miles traveled by facilitating development in proximity to existing/proposed/planned pedestrian, bicycle, and transit facilities;
- Including a TDM program that encourages automobile-alternative transportation;
- Complying with applicable regulations that would result in energy and water efficiency including Title 24 and CALGreen.

The proposed project would construct a commercial and office uses in proximity to multimodal facilities, implement a TDM program, and comply with Title 24 and CALGreen. The project, therefore, would not conflict with the applicable control measures in the 2017 CAP. **(Less than Significant Impact)**

Envision San José 2040 General Plan

The proposed project is consistent with the General Plan policies to reduce GHG emissions by facilitating development near existing multimodal facilities, incorporating green building practices, providing bike parking, and developing a TDM program to reduce VMT. **(Less than Significant Impact)**

Greenhouse Gas Reduction Strategy

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

[56] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 149.
[57] Ibid.

Since the project is consistent with the General Plan land use designations for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures required by the City would ensure its consistency with the GHG Reduction Strategy. The project's consistency with mandatory criteria is summarized in Table 4.8-1. As shown in Table 4.8-1, the project is consistent with the applicable mandatory criteria in the City's GHG Reduction Strategy.

Despite the project's consistency with relevant plans and policies as detailed in the Downtown Strategy FEIR and meeting the 2030 GHG substantial progress threshold, operational emissions from the Downtown Strategy 2040 (which includes emissions from the proposed development) would exceed the 2040 GHG substantial progress threshold. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Table 4.8-1: Project Consistency with GHG Reduction Strategy Mandatory Criteria

Mandatory Criteria	Consistency Discussion
1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)	**Consistent:** The proposed uses are consistent with the General Plan land use designation on the site. The project, therefore, is consistent with this criteria.
2. Implementation of Green Building Measures (General Plan Goals MS-1, MS-14) a. Solar site orientation b. Site design c. Architectural design d. Construction techniques e. Consistency with City Green Building Ordinances and Policies f. Consistency with GHG Reduction Strategy Policies MS-1.1, MS-1.2, MS-2.3, MS-2.11, and MS-14.4	**Consistent:** As described in Section 3.3 Green Building and Transportation Demand Management Measures, the project would be constructed in conformance with the City's Private Sector Green Building Policy. The project would incorporate green building measures such as minimizing parking to encourage alternative forms of transportation, providing EV chargers for five percent of the parking stalls, utilizing low flow plumbing fixtures, incorporating submetering systems for energy and water, and using all LED lighting to minimize use of energy and use of mercury in light bulbs. The project also includes TDM measures to reduce single-occupancy vehicle trips such as on-site bicycle parking, carpool matching program, on-site car share service, and transit subsidies. For the above reasons, the project is consistent with this criteria.

Table 4.8-1: Project Consistency with GHG Reduction Strategy Mandatory Criteria	
Mandatory Criteria	**Consistency Discussion**
3. Pedestrian/Bicycle Site Design Measures a. Consistency with Zoning Ordinance b. Consistency with GHG Reduction Strategy Policies CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.18, TR-3.3, and TR-6.7	**Consistent:** The project is required to provide bicycle parking (including long- and short-term parking spaces) in accordance with the zoning ordinance. The project would replace the sidewalks on Market Street and San Carlos Street and plant new street trees to enhance the pedestrian realm. The project also includes an off-street loading area on-site, which would avoid conflicts with adjacent uses. The project, therefore, is consistent with this criteria.
4. Salvage building materials and architectural elements from historic structures to be demolished to allow reuse (General Plan Policy LU-16.4), if applicable	**Not Applicable:** The project site does not contain historic resources and would not result in the demolition of historic resource. This criteria, therefore, is not applicable to the project.
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g., data centers; General Plan Policy MS-2.8), if applicable	**Not Applicable:** The project proposes office and commercial/retail uses. The project does not propose energy-intensive uses, such as a data center. This criteria, therefore, is not applicable to the project.
6. Preparation and implementation of the Transportation Demand Management Program at large employers (General Plan Policy TR-7.1), if applicable	**Consistent:** No tenant has been secured for the project at this time. As described in Section 3.3 Green Building and Transportation Demand Management Measures, the project includes TDM measures to reduce single-occupancy vehicle trips. The project, therefore, is consistent with the intent of this criteria.
7. Limits on drive-through and vehicle serving uses, if applicable. All new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow (General Plan Policy LU-3.6).	**Not Applicable:** The project does not propose drive-through or vehicle serving uses. This criteria, therefore, is not applicable to the project.

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment prepared for the project site by PES Environmental, Inc., dated February 5, 2019. A copy of this report is included in Appendix E.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[58]

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-

[58] CalEPA. "Cortese List Data Resources." Accessed December 2, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Regional and Local

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

General Plan Policies – Hazards and Hazardous Materials	
Environmental Contamination	
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

General Plan Policies – Hazards and Hazardous Materials	
Safe Airport	
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Community Health, Safety, and Wellness	
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.1.2 *Existing Conditions*

Potential On-Site Sources of Contamination

The project site is not on the Cortese List[59] or other regulatory databases as a known or suspected source of contamination, or a site that handles or a site that handles or stores hazardous materials. The project site is currently an asphalt-paved parking lot with a parking lot entry kiosk and pay station located on the southwestern portion of the site. De Minimis staining and asphalt cracking was observed on-site during a reconnaissance.

The project site has been developed since at least 1884 and has been occupied by a variety of commercial uses including a Macaroni Factory, clothes cleaners, and repair garage. By 1984, only one office building remained on-site. This building was demolished in 1997/1998 and the site has been vacant or in use as a parking lot since that time.

Potential Off-Site Sources of Contamination

Several properties in the project site vicinity are listed on hazardous materials release and/or storage databases. The properties are not expected to present significant environmental concern to the project site based on one or more of the following: (1) the listed property has received case closure by the appropriate regulatory agency; (2) the listed property is either cross gradient or downgradient of the subject property with respect to the inferred groundwater flow direction; (3) the type of release (soils-only and natural degradation process of the contamination); and (4) the listed property is located at too great a distance to represent a significant environmental concern with respect to the subject property. Refer to Appendix E for additional detail about the database search results.

[59] CalEPA. "Cortese List Data Resources". Accessed: December 2, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

Other Hazards

Airports

The Norman Y. Mineta San José International Airport is located approximately two miles northwest of the project site. As previously mentioned, FAR Part 77 requires the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding 80 feet in height above grade would require submittal to the FAA for airspace safety review.

Wildfire Hazards

The proposed project is located in a highly urbanized area that is not within a wildland urban interface area or a very high fire hazard severity zone.[60]

4.9.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
b) 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?	☐	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐
d) 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?	☐	☐	☐	☒	☐

[60] CALFIRE. "Wildland Hazard & Building Codes." Accessed December 12, 2019. http://egis.fire.ca.gov/FHSZ/.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) 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, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant hazards and hazardous impacts, as described below.

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The Downtown Strategy 2040 FEIR disclosed that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. Operation of the proposed commercial and office uses on-site would include the use and storage of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and materials would not create a significant hazard to the public or environment.

Based on the above discussion, the project would not result in new or substantially more severe hazards from the routine transport, use, or disposal of hazardous materials than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project 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?

Based on the Phase I completed for the site, no significant hazards or hazardous materials were identified on-site (refer to Appendix E).

During investigation and redevelopment activities in the site vicinity, subsurface rubble and debris were present in some areas and elevated concentrations of VOCs, metals, and petroleum hydrocarbons were identified in groundwater and/or soil. The sources of contaminants were not always identified but were attributed to the long history of commercial and light industrial uses in the site vicinity.

As described in Section 3.0 Project Description, the proposed parking facilities (below and above ground) and commercial space would be constructed with a ventilation system. In addition, the below ground parking facilities would be equipped with a combination of water intrusion/soil vapor barriers below and behind the concrete building basement slab and sidewalks. The ventilation system and water intrusion/soil vapor barriers would effectively reduce potential vapor intrusion into the proposed building (including the upper levels of office uses).[61]

As discussed above, vapor intrusion is not a concern on the site. There is, however, a potential for subsurface contamination to be present on-site. Consistent with the Downtown Strategy 2040 FEIR and the findings in the Phase I completed for the project (refer to Appendix E), the following measures shall be implemented to appropriately remediate soil and groundwater contamination if found on-site during construction.

Impact HAZ-1: The potential of subsurface contamination on-site could create a hazard.

Mitigation Measures:

MM HAZ-1.1: If below ground parking is constructed, a Phase II Environmental Site Assessment meeting ASTM standards shall be performed by a qualified environmental professional prior to the issuance of any demolition, grading, or building permits. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above regulatory environmental screening levels and could impact construction worker safety or future site occupants, then the applicant shall enter into the Site Cleanup Program with the Santa Clara County Department of Environment Health (SCCDEH). Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed office development. The Phase II results, and evidence of County oversight shall be submitted to the Director of PBCE (or the Director's designee) and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to issuance of any demolition, grading, or building permits.

[61] Dunn, James. Principal Geologist, PES Environmental. Personal communications. March 25, 2020.

MM HAZ-1.2: Prior to the issuance of any demolition, grading, or building permits, the project applicant shall have a qualified environmental professional prepare a Site Management Plan (or Waste Disposal Plan) to address the handling of impacted soils and groundwater during site development. The plan shall include the following elements:

- Procedures for transporting and disposing the waste material generated during removal activities,
- Procedures for stockpiling soil on-site,
- Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities,
- Confirmation soil sampling to verify achievement of remediation goals,
- Procedures to ensure that fill and cap materials are verified as clean,
- Truck routes, and/or
- Staging and loading procedures and record keeping requirements.

Impacted soils shall be appropriately characterized and transported off-site for disposal at a facility licensed to receive such waste and that contaminated groundwater is disposed of appropriately. Proof of proper disposal shall be submitted to the Director of Planning, or Director's designee, and the Environmental Compliance Officer prior to issuance of a building permit.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR and Phase I ESA, the project with the implementation of the above mitigation measures (which are consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) would not create a significant hazard to the public or environment by investigating subsurface contamination if below-grade parking is to be constructed, remediating contamination (if found), and preparing and implementing a SMP that outlines, amongst other things, how to appropriately handle contamination if encountered during construction.

Based on the above discussion, the project would not result in new or substantially more severe hazard from the release of hazardous materials into the environment than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The Downtown Strategy 2040 FEIR discussed how the redevelopment of downtown could locate facilities that emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of existing schools.[62] The project site, however, is not located within one-quarter mile of any proposed or existing school. The nearest school is San José State University, located approximately 0.6 mile east of the project site.

[62] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 163.

Based on the above discussion, the project would not result in new or substantially more severe hazardous materials impacts to schools than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project 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?

The Downtown Strategy 2040 FEIR disclosed that there are sites within the downtown area on the Cortese List.[63] As mentioned in Section 4.9.1.2, the project site is not on the Cortese List**.** The project would not result in new or substantially more severe hazardous materials impacts from sites listed on the Cortese List than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) If 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 or excessive noise for people residing or working in the project area?

The project proposes to construct a 295-foot tall building and use a 350-foot tall crane during construction, which require review by the FAA. General Plan Policy CD-5.8 and TR-14.2 requires FAA issuance of a "Determinations of No Hazard" as a condition of project approval, with any conditions set forth in an FAA no-hazard determination to be incorporated into the City's project approval.

Standard Permit Condition:

- **FAA Clearance Required**. The permittee shall obtain from the FAA a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot. Proof of obtained clearance shall be submitted to the City of San José prior to issuance of a construction or development permit.

FAA issuance of Determinations of No Hazard, and applicant compliance with any conditions set forth in such FAA determinations, would ensure that the project would not have an adverse impact on airspace safety. As a result, the project with the implementation of the above the above standard permit condition would not result in a substantial safety hazard for people residing or working in the project area. The project would not result in new or substantially more severe aviation-related

[63] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 152.

hazards than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The Downtown Strategy 2040 FEIR concluded that the implementation of the Downtown Strategy 2040 would not interfere with the City's Emergency Operations Plan or other emergency response plans. The project is consistent with Downtown Strategy 2040 and does not propose any physical changes that would impair emergency response or evacuation plans. **[Same Impact as Approved Project (No Impact)]**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

As described in Section 4.9.1.2, the project site is not located in a wildland urban interface area or a very high fire hazard severity zone. Consistent with the with the conclusion in Downtown Strategy 2040 FEIR, the project would not expose people or structures to any risk from wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[64] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

General Plan Policies – Hydrology and Water Quality	
Flooding and Stormwater Runoff	
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

[64] MRP Number CAS612008

General Plan Policies – Hydrology and Water Quality	
EC-5.3	Preserve designated floodway areas for non-urban uses.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Stormwater	
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Water	
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
Water Conservation and Quality	
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
General Provision of Infrastructure	
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
Water Supply, Sanitary Sewer and Storm Drainage	
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.

General Plan Policies – Hydrology and Water Quality	
	• Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

City of San José Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

4.10.1.2 *Existing Conditions*

The project site is located within the Guadalupe Watershed, a 170-square mile area with multiple small creek watersheds. Most of the project site (63,821 square feet or 99 percent) is impervious, with the remaining 857 square feet (or one percent) pervious. Stormwater runoff from the project site flows into a 10-inch diameter storm drain line in South Market Street. The runoff discharges to the Guadalupe River, approximately 0.3 miles west of the project site, and is ultimately conveyed to the San Francisco Bay.

The depth to groundwater in the project site area ranges from approximately 11 to 25 feet below ground surface.[65] Groundwater was encountered in exploratory borings at depths of 22 to 23 feet below ground surface. Fluctuations in groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.
The project site is not located within a natural or facility groundwater recharge area.[66]

The project site is not located in a 100-year floodplain. According to FEMA Flood Insurance Rate Map (FIRM), the project site is located in Zone D. Zone D is defined as areas where flood hazards are underdetermined but possible.[67]

Give the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐

[65] Rockridge Geotechnical. *Geotechnical Investigation Report Proposed Block 8 Office Building, 282 South Market Street, San José, California*. June 24, 2019. Page 6.
[66] Santa Clara Valley Water District. *Groundwater Management Plan.* 2016.
[67] Federal Emergency Management Agency. *Flood Insurance Rate Map 06085C0234H*. May 18, 2009.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
- result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
- 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; or	☐	☐	☐	☒	☐
- impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant hydrology and water quality impacts, as described below.

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction-Related Impacts

Construction of the proposed project, as well as grading and excavation activities, would result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system.

The project would disturb more than one acre of soil; therefore, it is required to obtain a NPDES General Permit for Construction Activities. In addition, the project is required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval.

The plan must detail the BMPs that would be implemented to prevent the discard of stormwater pollutants.

The project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.

Required Downtown Strategy 2040 FEIR Measures:

- **Construction General Permit Requirements.** Prior to initiating grading activities, the project applicant shall file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project's SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and construction activities. All measures shall be included in the project's SWPPP and printed on all construction documents, contracts, and project plans. The following construction BMPs may be included in the SWPPP:
  - Restrict grading to the dry season or meet City requirements for grading during the rainy season.
  - Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
  - Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff with secure plastic sheeting or tarps.
  - Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
  - Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
  - Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

  The SWPPP shall also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction.

  When the construction phase is complete, a Notice of Termination (NOT) shall be filed with the RWQCB and the DTSC, in conformance with the Construction General Permit requirements. The NOT shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a Post-Construction Stormwater Management Plan is in place, as described in the SWPPP for the site.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust, as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily with water sweepers.
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
- As the project is regulated by the Statewide Construction General Permit, it shall be subject to the requirements of that permit related to construction-period pumped groundwater discharges.

The Downtown Strategy FEIR concluded that development in conformance with existing regulations and with the implementation of the above measures and standard permit conditions would not result in significant construction-related water quality impacts.[68] The project, therefore, would not result in significant construction-related water quality impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction Impacts

Currently, most of the project site (99 percent) is impervious. The project would decrease impervious surfaces by 621 square feet, resulting in a corresponding decrease in surface runoff from the site. The project complies with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP to ensure post-construction runoff water quality. The project may qualify for LID treatment reduction credits under the Special Projects provision. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is subject to the City's review and approval.

It is proposed that post-construction stormwater runoff from the site be directed to media filters on-site prior to entering the storm drainage system. The media filtration system would be numerically sized and would have sufficient capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements.

[68] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 189.

The Downtown Strategy 2040 FEIR concluded that projects designed consistent with the current NPDES permit would ensure stormwater runoff from new development would have a less than significant impact on stormwater quality. The project, in compliance with the City's Grading Policy, the City's Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts on water quality as described in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

It is anticipated that construction of the project would require excavation at a maximum depth of 36 feet below ground. Because groundwater in the project area is known to range from 11 to 25 feet below ground, it is possible that dewatering would be required during project construction. The short-term discharge of water produced from construction dewatering to the sanitary sewer should be acceptable, under permit by the City of San José, Environmental Services Department, Watershed Protection Division, in accordance with the Watershed Protection discharge requirements. The maximum duration of a short-term permit to discharge to the sanitary sewer system is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. The proposed development could interfere with the shallow groundwater aquifer but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers.[69] Compliance with local and regional policies and regulations would avoid any water quality impacts to groundwater during construction.

Furthermore, as discussed above in Section 4.10.1.2 Existing Conditions, the project site is not located within a natural or facility groundwater recharge area. For these reason, the project would not substantially decrease groundwater supplies or interfere with groundwater recharge.

Based on the above discussion, the project would not result in new or substantially more severe significant groundwater impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; 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; or impede or redirect flood flows?

The project would not alter the course of a stream or river. The project would result in a net decrease in 621 square feet of impervious surfaces on-site, thereby resulting in corresponding decrease in

[69] Shields, Craig S. Principal Engineer, Rockridge Geotechnical. Personal communications. December 6, 2019.

surface runoff from the site compared to existing conditions. As a result, the existing storm drain system would continue to adequately accommodate runoff from the site under the proposed project and the project would not result in on- or off-site flooding. In addition, the project would comply with the City's Grading Policy and Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements to minimize erosion or siltation.

Based on the above discussion, the project would not result in new or substantially more severe significant drainage impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

As described in Section 4.10.1.2 Existing Conditions, the project site is not located near a large body of water and would not be subject to seiche or tsunami. The project site is not located in a 100-year floodplain. The project site is located in Zone D, which are areas where flood hazards are underdetermined but possible.

The proposed commercial and office uses could store small amounts of cleaning chemicals; however, no other routine use, storage, transportation, or disposal of hazardous materials are proposed. In addition, the risk of flooding on-site is not significant (e.g., the site is not within a 100-year floodplain). For these reasons, the project would result in a less than significant risk release of pollutants due to project inundation.

Based on the above discussion, the project would not result in new or substantially more severe significant risk due to inundation than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

As discussed under Impact HYD-1 and Impact HYD-2, the project would comply with applicable water quality control regulations and would not substantially decrease groundwater supplies or interfere with groundwater recharge. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

The project's land use impacts are evaluated in the Supplemental EIR prepared for this project. No further analysis is provided in this Initial Study.

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.12.1.2 *Existing Conditions*

The project site is located downtown and not within the Communications Hill area. The downtown is not located within a designated area containing mineral deposits of regional or local significance.[70] Communications Hill is approximately 2.5 miles south of the project site.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) 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?	☐	☐	☐	☒	☐
b) 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?	☐	☐	☐	☒	☐

[70] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 140.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the proposed project have no impact on mineral resources, as described below.

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

As discussed in the Downtown Strategy FEIR, the build-out of the Downtown Strategy (including the project site) would not result in impacts to mineral resources, including the loss of availability of a known mineral resource.[71] **[Same Impact as Approved Project (No Impact)]**

b) Would the project 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 project site is not delineated in the General Plan or other local land use plan as a mineral resource recovery site. As discussed in the Downtown Strategy FEIR, the build-out of the Downtown Strategy (including the project site) would not result in impacts to mineral resources, including the loss of availability of a locally important resource recovery site.[72] **[Same Impact as Approved Project (No Impact)]**

[71] Ibid.
[72] Ibid.

4.13 NOISE

The following discussion is based on a noise and vibration assessment completed for the project by Illingworth & Rodkin, Inc. dated March 23, 2020 and a supplemental memo dated September 4, 2020. Copies of these reports are included in Appendix F.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[73] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

Refer to Appendix F for additional background information on noise and vibration.

[73] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

Federal and State

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 4.13-1: Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

California Green Building Standards Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA DNL or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Regional and Local

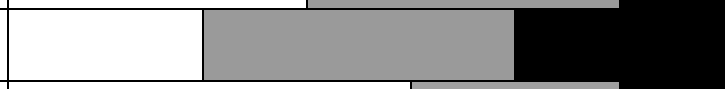
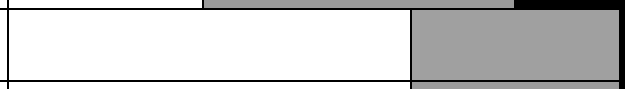
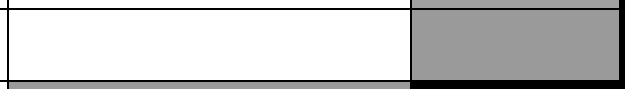
Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

As previously discussed in Section 4.9 Hazards and Hazardous Materials, the Norman Y. Mineta San José International Airport CLUP is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an AIA, which is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

Envision San José 2040 General Plan

The General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are shown Table 4.13-2 below.

Table 4.13-2: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior DNL Value in Decibels 55 60 65 70 75 80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]	
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	
3. Schools, Libraries, Museums, Meeting Halls, and Churches	
4. Office Buildings, Business Commercial, and Professional Offices	
5. Sports Arena, Outdoor Spectator Sports	
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters	

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

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:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

In addition, the following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise and are applicable to the project.

General Plan Policies – Noise and Vibration	
Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

General Plan Policies – Noise and Vibration	
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 inch/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 inch/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

City of San José Municipal Code

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

4.13.1.3 *Existing Conditions*

The noise levels at the project site result primarily from vehicular traffic along South First Street, West San Carlos Street, and South Market Street. VTA trains run frequently between the hours of 4:30 AM and 12:30 AM daily and sound warning bells near the site. Distant traffic along I-280 and SR 87 and occasional overhead aircraft associated with the Mineta San José International Airport (approximately 2.0 miles northwest of the project site) also contribute to the noise environment in the area. The project site lies within the 60 to 65 dBA CNEL 2037 noise contour for the airport.[74]

Long and short-term noise measurements were taken to quantify the existing noise environment at the project site. The day-night average noise level measured just east of the project, approximately 15 feet from the center of the light rail tracks was 75 dBA DNL. The hourly average noise levels at this location typically range from 66 to 73 dBA L_{eq} during the day and 59 to 71 dBA at night. A short-term noise measurement was taken to quantify noise levels at the center of the site. The primary noise source at this location was local traffic, which generated noise levels between 60 and 65 dBA. Overhead jets generated noise levels that ranged from 68 to 72 dBA. Existing noise sensitive receptors include upper story residences north and south of the project site.

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐

[74] City of San José. *Draft Environmental Impact Report for the Amendment to the Norman Y. Mineta San José International Airport Master Plan*. SCH #2018102020. November 2019. Page 279, Figure 4.13-4. Certified April 28, 2020.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project would substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial.

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. For the purposes of this analysis, the City of San José relies on the following as CEQA thresholds of significance:

- Construction Noise – For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.[75]
- Operational Noise – Based on General Plan Policy EC-1.2, a significant noise impact would occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain "Normally Acceptable," as shown previously in Table 4.13-2.
- Construction Vibration – Based on General Plan Policy EC-2.3, significant vibration impacts would occur if the project generates a continuous vibration limit of 0.2 inches/sec (5.0 mm/sec) PPV for buildings of normal conventional construction, and a continuous vibration limit of 0.08 inches/sec (2.0 mm/sec) PPV for buildings that are historic or documented to be structurally weakened.

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant noise impacts, as described below.

[75] City of San José. *Envision San Jose 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH# 2009072096.September 2011. Page 325.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Permanent Operational Noise Impacts

Project-Generated Traffic

As described in Section 4.13.3.1, the existing noise level on-site (75 dBA DNL) exceeds the City's "normally acceptable" noise level for office and commercial uses. Pursuant to General Plan Policy EC-1.2, a three dBA DNL increase at noise sensitive receptors would be significant. A three dBA DNL noise increase would be expected if the project would double existing traffic volumes along the roadway. Based on review of the existing and existing plus project traffic volumes, the project contribution to the overall noise level increase would be two dBA DNL or less along each roadway segment in the project site vicinity.[76] The project alone, therefore, would not result in a significant, permanent noise increase.

The Downtown Strategy 2040 FEIR concluded that the traffic generated from the build-out of the Downtown Strategy 2040 (which includes the traffic generated by the proposed project) would result in a significant, unavoidable noise impact at existing noise sensitive land uses adjacent to segments of Santa Clara Street, Autumn Street, San Carlos Street, Bird Avenue, Julian Street, Almaden Boulevard, Race Street, The Alameda, King Road, First Street, Fruitdale Avenue, Alma Avenue, Naglee Avenue, and Keyes Street.[77]

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, traffic generated from the build-out of Downtown Strategy 2040 (which includes the project's traffic) would result in significant, unavoidable noise impacts at sensitive land uses adjacent to specific roadway segments.[78] **(Same Impact as Approved Project [Significant Unavoidable Impact])**

Mechanical Equipment

The proposed project would include various mechanical equipment for heating, ventilation, and air conditioning needs. In accordance with the Downtown Strategy 2040 FEIR and pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses. Specific details on the mechanical equipment are not known at this time and would be chosen prior to project construction, therefore, the following mitigation measure has been included to ensure conformance with Policy EC-1.3.

Impact NOI-1: The mechanical equipment for the project has the potential to exceed 55 dBA DNL at adjacent noise-sensitive land uses.

Mitigation Measure:

[76] Hexagon Transportation Consultants. *Block 8 Mixed-Use Development Local Transportation Analysis.* November 5, 2019.
[77] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 228.
[78] Ibid.

MM NOI-1.1: Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the project in conformance with the General Plan Policy EC-1.3 and with the implementation of the mitigation measure above (which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) would have a less than significant noise impact from mechanical equipment. The project would not result in new or substantially more severe significant operational noise impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

Temporary Construction Noise Impacts

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The highest maximum noise levels generated by project construction would typically range from about 80 to 90 dBA L_{max} at a distance of 50 feet from the noise source. Typical hourly average construction-generated noise levels for office buildings are about 78 to 89 dBA L_{eq} measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain can provide an additional five to 10 dBA noise reduction at distant receptors.

Construction of the project is anticipated to occur over a period of 34 months. It is estimated that approximately 80,000 cubic yards of soil would need to be excavated and hauled off-site. Construction equipment would be staged on-site and on nearby private property upon mutual agreement.

A detailed list of equipment expected to be used during each phase of construction was provided by the applicant. FHWA's Roadway Construction Noise Model (RCNM) was used to calculate the hourly average noise levels for each phase of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario. As shown in Table 4.13-3, ambient levels at the surrounding uses would potentially be exceeded by five dBA L_{eq} or more at various times throughout construction. The estimated noise levels shown in the table do not assume reductions due to intervening buildings or existing barriers. Since project construction would last for a period of more than one year and the project site is within 200 feet of existing residential uses, this temporary construction impact would be considered significant in per General Plan Policy EC-1.7.

Table 4.13-3: Estimated Worst-Case Construction Noise Levels at Nearby Land Uses

Phase of Construction	Total Work Days	Calculated Hourly Average Noise Levels, L_{eq} (dBA)			
		Residences and Hotel to the North (100 feet)	Residences and Hotel to the South (210 feet)	Courthouse to the East (225 feet)	Theater to the West (375 feet)
Demolition	4	79	72	72	67
Site Preparation	5	76	69	69	64
Shoring	15	75	69	68	64
Grading/Excavation	5	79	73	72	68
Trenching	15	72	66	65	61
Concrete Pouring	306	76	69	69	64
Building Exterior/Steel	540	76	70	69	65
Building Interior/ Architectural Coating	300	74	67	67	62

In addition to the construction equipment per construction phase, a number of truck trips are anticipated to occur to and from the project site, particularly during the grading and excavation phase and concrete pouring phase. During the grading and excavation phase, it is estimated that approximately 80,000 cubic yards of soil and 725 tons of pavement would be removed from the project site. Based on the model output for the air quality and greenhouse gas assessment of the project, approximately 10,000 truck hauling would be required over a span of 117 days. This equates to approximately 85 truck trips per day, or 10 to 11 truck trips per hour. Modeling was completed to determine the noise level increase at nearby sensitive receptors due to haul truck traffic and the results were compared to existing ambient noise levels. The noise from haul truck traffic would be less than ambient noise levels and would result in a less than significant increase in traffic noise levels near the project site (i.e., less than one decibel increase) (refer to Appendix F for additional details about the modeling and analysis).

During the concrete pouring phase, it is anticipated that approximately 4,000 truck trips would be required over a span of approximately 306 days. This equates to approximately 13 truck trips per day, or less than two truck trips per hour. While the total number of truck trips are not anticipated to significantly increase the surrounding noise environment when compared to existing traffic conditions, truck trips should be controlled to limit noise exposure to receptors located near the project site as well as receptors located along surrounding roadways. The project shall implement the following mitigation measure, which is consistent with the measures identified in the Downtown Strategy 2040 FEIR and measures required in General Plan Policy EC-1.7, to reduce construction noise impacts on nearby sensitive receptors.

Impact NOI-2: Project construction activities would result in significant construction noise impacts on nearby sensitive receptors.

Mitigation Measure:

MM NOI-2.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of PBCE, or Director's designee, prior to the issuance of any grading or demolition permits. As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Limit construction truck traffic to truck routes and avoid sensitive land uses where feasible. Configure a traffic pattern on the project site to minimize truck backing movements.
- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the construction schedule, in writing, at least seven days prior to the beginning of construction.
- Utilize "quiet" models of air compressors and other stationary noise sources where technology exists;
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;

- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;
- Prepare and submit a construction noise mitigation plan that documents how construction noise from the 24-hour concrete pours would be minimized to reduce noise disturbance to affected residential uses from concrete pours occurring outside the standard construction hours of 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The plan shall include a Relocation Plan (described below). The plan shall be reviewed and approved by the Director of PBCE.
- Prepare a Relocation Plan that describes the process to temporarily relocate residents at the Casa del Pueblo Residential Tower and St. Claire Apartments that have direct line of sight to the construction site for the duration of the 24-hour concrete pouring construction phase. The plan would describe the process to temporarily relocate residents, describe the alternative housing options, and describe the proposed timing of relocation. If said residents request relocation, the applicant shall provide a copy of the Relocation Plan and implement the plan if requested;
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling or temporary relocation. Noise control blanket barriers can be rented and quickly erected;
- Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the project in conformance with the General Plan Policy E.C-1.7, the Municipal Code, and the above mitigation measure (which is consistent with the measures identified and required of development in the Downtown Strategy 2040 FEIR) would have a less than significant construction noise impact by limiting construction hours and implementing measures to reduce construction noise. The project would not result in new or substantially more severe significant construction-related noise impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Construction Vibration

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. Pile driving equipment is not expected to be required for the proposed project.

General Plan Policy EC-2.3 requires new development to minimize vibration impacts to adjacent uses during demolition and construction. Pursuant to General Plan Policy EC-2.3, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. Table 4.13-4 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Worst-case vibration levels were calculated for the nearest buildings surrounding the site, measured from the project site's boundaries. These vibration levels are shown in Table 4.13-4. The nearest existing buildings to the project site are the Four Points by Sheraton Hotel (formerly the historic Montgomery Hotel) and the Casa del Pueblo Residential Tower that share the property line to the north. The Four Points by Sheraton is documented as a historic structure.[79] Therefore, a significant impact would occur if this building is exposed to vibration levels exceeding 0.08 in/sec PPV. Additional structures of normal conventional construction within proximity include the Casa del Pueblo Residential Tower, Robert F. Peckham Federal Building and Courthouse to the east, and Westin San José and multi-family residential buildings to the south. A significant impact would occur if these buildings are exposed to vibration levels exceeding 0.2 in/sec PPV.
Some activities would occur at distances as close as five feet, and at this distance, vibration levels due to construction are conservatively calculated to reach up to 1.233 in/sec PPV prior to mitigation, which would exceed the 0.08 in/sec PPV threshold for historical structures and 0.2 in/sec PPV threshold for buildings of normal conventional construction.

[79] Illingworth & Rodkin, Inc. *Noise and Vibration Assessment.* March 23, 2020

Table 4.13-4: Vibration Source Levels for Construction Equipment						
Equipment		**PPV at 25 ft. (in/sec)**	**Vibration Levels at Nearest Buildings (in/sec PPV)**			
			Residential Building (5 feet)	**Historic Structure (5 feet)**	**Courthouse (90 feet)**	**Hotel and Residential Building (100 feet)**
Clam shovel drop		0.202	**1.186**	**1.186**	0.049	0.044
Hydromill (slurry wall)	In soil	0.008	0.047	0.047	0.002	0.002
	In rock	0.017	0.100	**0.100**	0.004	0.004
Vibratory Roller		0.210	**1.233**	**1.233**	0.051	0.046
Hoe Ram		0.089	**0.523**	**0.523**	0.022	0.019
Large bulldozer		0.089	**0.523**	**0.523**	0.022	0.019
Caisson drilling		0.089	**0.523**	**0.523**	0.022	0.019
Loaded trucks		0.076	**0.446**	**0.446**	0.019	0.017
Jackhammer		0.035	**0.206**	**0.206**	0.009	0.008
Small bulldozer		0.003	0.018	**0.018**	0.001	0.001
Note: **Bold** text indicates significant vibration levels.						

The Downtown Strategy 2040 FEIR refined the categories and thresholds set forth in Policy EC-2.3, establishing seven separate categories to assess the potential for significant impacts from construction vibration. The first two categories in Table 4.13-5 (Categories 1 and 2) address human perceptibility of vibration only. The five remaining categories (Categories 3-7) address human perceptibility and potential for damage to buildings described as “Extremely fragile historic buildings, ruins, ancient monuments”, “Fragile buildings”, “Historic and some old buildings”, “Older residential structures”, “New residential structures”, and “Modern industrial/commercial buildings”. As shown in Table 4.13-4, the worst-case vibration levels produced by construction of the project would be up to 1.233 in/sec PPV, which would fall under Category 7. For projects that produce vibration levels falling under Category 7, there is a risk of damage to new residential and modern commercial/industrial structures. Since vibration levels may be above 0.08 in/sec PPV at the Four Points Sheraton historical structure and above 0.2 in/sec PPV at the Casa del Pueblo Residential Tower, this would be a potentially significant impact prior to implementation of the required measures from the Downtown Strategy 2040 FEIR identified below.

Table 4.13-5: Construction Vibration Threshold Criteria			
Category	**Continuous PPV at affected building (inch/sec)**	**Human Reaction**	**Effect on Buildings**
1	0.01	Barely perceptible	No effect
2	0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
3	0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of the vibration to which ruins and ancient monuments should be subjected
4	0.1	Strongly perceptible	Threshold at which there is a risk of cosmetic damage to fragile buildings with no risk of cosmetic damage to most buildings
5	0.25	Strongly perceptible to severe	Threshold at which there is a risk of damage to historic and some old buildings
6	0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential structures
7	0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to new residential and modern commercial/industrial structures
Source: Transportation and Construction Vibration Guidance Manual, California Department of Transportation, September 2013.			

Impact NOI-3: Project-related construction-vibration could result in significant impacts at nearby structures.

Mitigation Measures:

MM NOI-3.1: The project shall implement the following measures during construction unless otherwise noted:

- Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- Limit other vibration-inducing equipment to the extent feasible.
- Prior to issuance of any demolition or grading permits, submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.

- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- Prior to issuance of demolition or grading permits, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during project construction activities.
- A Historic Resources Protection Plan/Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after construction. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods and a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. A draft of the Historic Resource Protection Plan portion shall be submitted to the Director of PBCE or Director's designee for review and approval prior to implementation of the plan. The plan shall include the following tasks:
    - Education and training of construction workers about the significance of the historic resources around which they would be working.
    - Guidelines for operating construction equipment adjacent to historic resources.
    - Identification of sensitivity to ground-borne vibration of the Four Point by Sheraton and Casa Del Pueblo Residential Tower. A vibration survey (described below) shall be performed by a qualified acoustical consultant, licensed historical architect, or licensed Professional Structural Engineer in the State of California.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures, per approval of the property owners. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
    - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct

photo, elevation, and crack surveys to document before and after construction. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the General Plan, including General Plan Policy EC-2.3.

- If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to restore the character-defining features of the resources in a manner that does not affect the eligibility of the historic property as a historic resource.
- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the project with the implementation of the above mitigation measure (which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR) would result in a less than significant construction vibration impacts by implementing measures to reduce vibration levels and implementing a plan to monitor vibration levels.[80] The plan includes documenting conditions prior to, during, and after construction, monitoring vibration levels, suspending construction if vibration levels approach limits and implement alternative construction methods or secure affected structures, and making appropriate repairs where damage has occurred. **[Same Impact as Approved Project (Less than Significant Impact)]**

[80] City of San José. Integrated Final EIR for the Downtown Strategy 2040. SCH# 2003042127. December 2018. Pages 232-234.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The project site is located approximately two miles southeast of the Norman Y. Mineta San José International Airport. The project site is within the AIA and lies within the 60-65 dBA CNEL 2037 noise contour for the airport.[81] In accordance with General Plan Policy EC-1.11, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. The project would not result in new or substantially more severe significant airport-related noise impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise and vibration conditions affecting a proposed project.

Exterior and Interior Noise and Land Use Compatibility

General Plan Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state, and City noise standards and guidelines as a part of new development review. The City's acceptable exterior noise level for office and commercial land uses is 70 dBA DNL or less (refer to Table 4.13-1).

Based on estimated future traffic volumes, the Downtown Strategy 2040 FEIR concluded that noise levels at the project site are anticipated to increase by three dBA DNL above existing conditions by 2040. Therefore, future noise at the project site is anticipated to be up to 78 dBA DNL.

The project includes two outdoor sky gardens: on floor 17 and floor 19 (or floor 18). Since the outdoor sky gardens are elevated and thus setback at a greater distance from local distance from local traffic and shielded from the direct view of the roadway by the building itself, noise levels would be below 70 dBA DNL. Overhead aircraft would periodically contribute to the noise environment but would not produce noise levels that exceed 65 dBA CNEL. Small, outdoor amenity areas are proposed on floors 1 and 8, however, these secondary amenity areas are not considered to be areas of frequent use that would benefit from a lower noise level. The use of these areas would be transitory in nature, with limited noise exposure to persons choosing to temporarily use these spaces for outdoor enjoyment. Exterior noise levels at the primary outdoor activity areas (i.e., sky gardens) would remain compatible with the proposed use and would provide suitable outdoor space for

[81] City of San José. *Draft Environmental Impact Report for the Amendment to the Norman Y. Mineta San José International Airport Master Plan*. SCH #2018102020. November 2019. Page 279, Figure 4.13-4. Certified April 28, 2020.

occupants desiring lower noise levels. The future noise environment at the proposed outdoor sky gardens would be compatible with the City's General Plan threshold for exterior noise levels.

In addition, CALGreen Code requires that interior noise levels be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at the proposed building. The day-night average noise levels at ground level of the building exterior are expected to be up to 78 dBA DNL. Since office spaces are located on floors 8 through 19, noise levels at office space exteriors would be up to approximately 73 dBA DNL.
Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems would be required so the windows may be kept closed at the occupant's discretion; therefore, providing an additional five dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA $L_{eq(1\text{-}hr)}$.

To be consistent with the CALGreen Code, the below conditions of approval shall be implemented by the project applicant.

Condition of Approval:

- Provide forced-air mechanical ventilation to maintain interior noise levels at acceptable levels. A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the final design phase of the project pursuant to requirements set forth in the General Plan and State Building Code. The study shall review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce interior noise levels to 50 dBA $L_{eq(1\text{-}hr)}$ or lower, and address and adequately control noise from rooftop equipment on adjacent buildings, as necessary. Treatments would include, but are not limited to, sound-rated windows and doors as specified above, acoustical caulking, protected ventilation openings, etc. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

Vibration and Land Use Compatibility

The frequency of the VTA light-rail trains would place the level of train activity in the "frequent events" category and the applicable threshold is 75 VdB for institutional land uses with primarily daytime use (refer to Table 4.13-1). Based on information from the FTA, vibration levels would be 65 VdB or less at a distance of 50 feet from the centerline of the VTA light-rail train tracks assuming a travel speed of 20 mph or less. The nearest track switch (a movable section of special trackwork that enables a train to change direction depending on how the switch is set) is located approximately 50 feet from the project site, therefore, a +10 dB switch adjustment was included in the calculations resulting in vibration levels of up to 75 VdB outside the building. Vibration levels within the building would be about 10 dB less than vibration levels outside the building because of a coupling loss between the building and the ground (the heavier the building construction, the greater the coupling loss). Vibration levels due to light-rail trains are calculated to be 65 VdB or less, which is below the 75 VdB threshold level. Persons at rest may perceive the vibration; however, vibration controls are not required.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State and Regional

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

The project site is developed and used as a parking lot. There are no existing housing or residents on-site.

4.14.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Induce substantial unplanned 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)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, development of the project would contribute to the Downtown Strategy 2040's significant, unavoidable impact jobs/housing imbalance.

a) Would the project induce substantial unplanned 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)?

The project would develop 16,375 square feet of commercial uses and 627,210 square feet of office uses, resulting in approximately 3,650 employees.[82] The amount of development proposed is consistent with the General Plan land use designation for the site and the development assumptions in the Downtown Strategy 2040 and General Plan FEIRs. The project does not propose improvements (such as the expansion of infrastructure beyond the City's urban service boundary) that would result in indirect population growth. For these reasons, the project would not result in new or substantially more severe population growth than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[82] The number of project employees is estimated assuming one employee per 250 square feet of commercial/retail uses and one employee per 175 square feet of office uses (source: Strategic Economics. *San José Market Overview and Employment Lands Analysis.* January 20, 2016. Figure V-9.).

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

As discussed in Section 4.14.1.2 Existing Conditions, the site is currently a parking lot and there are no existing housing or residents on-site. The project, therefore, would not displace existing people or housing, or result in new or substantially more severe impacts to the displacement of people or housing than disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public services and are applicable to the project.

General Plan Policies – Public Facilities and Services	
Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.3	Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and file facilities and delivery of services keeps pace with development and growth of the city.
ES-3.5	Co-locate public safety facilities with other public or private uses to promote efficient use of space and provision of police and fire protection services within dense, urban portions of the city.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.13	Maintain emergency traffic preemption controls for traffic signals.

4.15.1.2 *Existing Conditions*

Fire Protection

Fire protection services for the project area are provided by the San José Fire Department (SJFD). SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 1 located at 225 North Market Street, approximately 0.7 miles north of the site.

Police Protection

Police protection services for the project are provided by the San José Police Department (SJPD). SJPD is authorized to employ approximately 1,400 employees including both sworn and non-sworn. Patrolling officers are dispatched via police headquarters located at 201 West Mission Street.

Schools

The project site is located within the San José Unified School District (SJUSD). Students in the project area attend Horace Mann Elementary School located at 55 North Seventh Street (approximately 0.5 miles northeast of the project site), Hoover Middle School located at 1635 Park Avenue (approximately 1.9 miles northwest of the project site), and Lincoln High School located at 555 Dana Avenue (approximately two miles west of the project site).

Parks

The City provides and maintains developed parkland and open space to serve its residents. Residents of San José are served by regional and community park facilities, including regional open space, community and neighborhood parks, playing fields and trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public park to the project site is Plaza de Cesar Chavez located across the street, on the west side of South Market Street.

Libraries

The San José Public Library System consists of one main library, 23 branch libraries, and one neighborhood library. Residents of the downtown area are served by the Dr. Martin Luther King Jr. Library. The Dr. Martin Luther King Jr. Library is approximately 0.3 miles northeast of the project site.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☐	☒	☐

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The proposed office and commercial development would increase the population on-site and would increase the demand for fire protection services compared to existing conditions. The Downtown Strategy 2040 FEIR concluded that, the increase in fire protection services from the build-out of the Downtown Strategy 2040 (which includes the proposed development) would not require the construction of fire stations in excess of those already planned to maintain adequate service.[83] In addition, although SJFD is not currently meeting response time objectives, the planned construction and/or relocation of stations by the City will improve response times.[84] In addition, new development (including the proposed project) would be constructed to current fire and building code standards, including adequate emergency vehicle access and features that would reduce potential fire hazards. For these reasons, the project would not result in new or substantially more severe significant fire protection impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[83] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 262.
[84] Ibid.

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 police protection services?

As discussed under checklist question a), the project would increase the population on-site compared to existing conditions. The increase in population on-site would result in an increase in demand for police protection services compared to existing conditions.

As discussed in the Downtown Strategy 2040 FEIR, additional officers and equipment may be required to meet the increased demand for police protection services from the build-out of the General Plan.[85] While no additional stand-alone police facilities are anticipated, expansion of existing facilities may be required.[86] Implementation of General Plan policies would reduce the physical impacts from development of police facilities to a less than significant level.[87] Implementation of General Plan policies, including the ones listed in Section 4.15.1.1 Regulatory Framework, would also help SJPD meet and maintain the City's response time objectives over the long-term.[88] For these reasons, the Downtown Strategy 2040 FEIR concluded that the addition or expansion of police facilities in conformance with General Plan policies would not result in significant, unavoidable impacts to the environment. [89] **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 schools?

The Downtown Strategy 2040 FEIR concluded that implementation of the Downtown Strategy 2040 would result in a less than significant impact to schools.[90]

The proposed project would construct a new office/commercial building and would not include any residential development. No new students would be generated by implementation of the proposed project; therefore, the project alone would not result in a significant impact to schools and the project would not result in new or substantially more severe significant groundwater impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[85] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 262.
[86] Ibid.
[87] Ibid.
[88] Ibid.
[89] Ibid.
[90] Ibid.

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 parks?

The City's parkland goals are focused on providing adequate parkland for residents and the City maintains adequate parkland through implementation of its Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) on new residential developments. The project does not propose residential uses and, therefore, is not subject to the City's PDO or PIO.[91]

The project would result in an increase in employees on-site that could use local parks, compared to existing conditions. The project is included in the growth assumptions for Downtown Strategy 2040, therefore, the minimal increase in park use by project employees was evaluated in the Downtown Strategy 2040 FEIR. As discussed in the Downtown Strategy 2040 FEIR, the existing, planned, and future recreational facilities (including private recreational amenities developed as part of future residential development) would meet community needs and the build-out of Downtown Strategy 2040 would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated due to overuse.[92] For these reasons, the project would not result in new or substantially more severe significant park impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 other public facilities?

The Downtown Strategy 2040 FEIR concluded that the implementation of the Downtown Strategy 2040 (which includes the proposed development) would be adequately served by existing and planned library facilities.[93] For this reason, implementation of the project would result in the same impact to library facilities as disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[91] City of San José. *Integrated Final EIR Downtown Strategy 2040*. SCH# 2003042127. December 2018. Pages 249-266.
[92] Ibid, Page 264.
[93] Ibid, Page 265.

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks.[94] The City currently operates 197 neighborhood parks, 51 community centers, nine regional parks, and 61 miles of trails. The nearest parks to the project site are Plaza de César Chávez Park located across the street on the west side of South Market Street and John P. McEnery Park located approximately 0.5 miles southwest.

4.16.2 Impact Discussion

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
a)	Would the project 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?	☐	☐	☐	☒	☐
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐

Consistent with the conclusion in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant recreation impacts, as described below.

a) Would the project 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?

The project would result in an increase in employees on-site that could use parks and other recreational facilities in the area. The Downtown Strategy 2040 FEIR concluded that the demand for recreational facilities resulting from the implementation of the Downtown Strategy 2040 (which includes the proposed development) would be met by existing and planned recreational facilities, future recreational amenities proposed as part of new residential developments, and implementation of the City's PDO and PIO.[95] For this reason, the minimal increase in park use by project employees would not place a major physical burden on parks or result in new or substantially more severe

[94] City of San José. *Fast Facts*. December 20, 2018.
[95] City of San José. *Integrated Final EIR Downtown Strategy 2040*. SCH 2003042127. Pages 249-266.

significant recreation impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

As discussed under checklist question a), the build-out of Downtown Strategy 2040 would not increase the usage of existing parks and other recreational facilities such that construction of new facilities or expansion of recreational facilities beyond what is already planned would be required.

The project does not propose recreational facilities and the minimal increase in use of park and recreational facilities by the project employees would not place a major physical burden on recreational facilities or require the provision of new or expanded recreational facilities. The project would not result in new or substantially more severe significant recreation impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The following discussion is based on a Local Transportation Analysis completed for the project by Hexagon Transportation Consultants, Inc. dated October 21, 2020. A copy of this report is included in Appendix G.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan (RTP), a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a RTP to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

Senate Bill 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, Senate Bill 743 requires the replacement of automobile delay—described solely by LOS or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing Senate Bill 743 on December 28, 2018. Local jurisdictions are required to implement a VMT policy by July 1, 2020.

Senate Bill 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation and are applicable to the project.

General Plan Policies – Transportation	
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.3	Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are presented in the following table:

Commute Mode Split Targets for 2040

Mode	Commute Trips to and From San José	
	2008	**2040 Goal**
Drive alone	77.8%	No more than 40%
Carpool	9.2%	At least 10%
Transit	4.1%	At least 20%
Bicycle	1.2%	At least 15%
Walk	1.8%	At least 15%
Other means (including work at home)	5.8%	See Note 1

Source: 2008 data from American Community Survey (2008).

Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.

TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.2	Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and

General Plan Policies – Transportation	
	barriers that impede pedestrian and bicycle movement~~,~~ on City streets. Include consideration of grade-separated crossings at railroad tracks and freeways. Provide safe bicycle and pedestrian connections to all facilities regularly accessed by the public, including the Mineta San José International Airport.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. • Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. • Create easily identifiable and accessible building entrances located on street frontages or paseos. • Accommodate the physical needs of elderly populations and persons with disabilities. • Integrate existing or proposed transit stops into project designs.
CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
CD-3.3	Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is at least 15 percent below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is less than or equal to existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Downtown Streetscape Master Plan

The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development for the purpose of enhancing the pedestrian experience in the greater downtown area. Per the DSMP, there are many designated Downtown Pedestrian Network Street (DPNS) in the vicinity of the project site, which are intended to support a high level of pedestrian activity as well as retail and transit connections. The DPNS streets provide a seamless network throughout the downtown that is safe and comfortable for pedestrian and comfortable for pedestrians and connects all major downtown destinations. Design features of a DPNS create an attractive and safe pedestrian environment to promote walking as the primary travel mode.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional Access

SR 87 is primarily a six-lane freeway that is aligned in a north-south orientation within the site vicinity. SR 87 begins at its interchange with SR 85 begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101. Connections from SR 87 to the project site are provided via partial interchanges at Park Avenue, Auzerias Avenues, and Woz Way. SR 87 also provides access to I-280/680 and US 101.

I-280 connects from US 101 in San José to I-80 in San Francisco. It is generally an eight-lane freeway in the vicinity of downtown San José. It also has auxiliary lanes between some interchanges. The section of I-280 just north of the Bascom Avenue overcrossing has six mixed-flow lanes and two high-occupancy-vehicle (HOV) lanes. Connections from I-280 to the project site are provided via partial interchanges at First Street, Almaden Boulevard, Vine Street, and Seventh Street.

Local Access

Market Street is a north-south four-lane street located along the west project frontage. In the vicinity of the project site, the northbound and southbound lanes of Market Street are divided by Plaza de Cesar Chavez, between San Fernando Street and San Carlos Street. Market Street transitions into First Street at its intersection with Reed Street. Market Street provides direct access to the project site.

San Carlos Street is an east-west four-lane street located along the south project frontage. It extends as West San Carlos Street from First Street westward to Bascom Avenue where it transitions into Stevens Creek Boulevard. East First Street extends eastward as East San Carlos Street with a break between Fourth and Tenth Streets and terminating at Seventeen Street. In the vicinity of the project site, the VTA light rail tracks run along the middle of the street, separating the eastbound and westbound travel lanes. Access to the project site is provided via its intersection with Market Street, at the southwest corner of the project site.

First Street is a two-to four-lane roadway that extends from Alma Avenue north to Alviso, where it terminates. Within the downtown area, First Street is a two-lane northbound-only roadway that consists of one bus-only lane and one shared vehicular/bicycle lane. Northbound VTA light rail tracks run along the east side of the roadway between San Carlos Street and St. James Street. First Street runs along the east project frontage and provides access to the project's parking garage via San Carlos Street and Market Street.

San Fernando Street is an east-west two-lane street located north of the project site that extends through the heart of downtown between Autumn Street to the west and the Seventeen Street to the east. San Fernando Street has sidewalks on both sides and buffered bike lanes in both directions. A striped median with two-way left-turn lanes are provided east of Almaden Boulevard. Access to the project site is provided via Market Street and First Street.

Pedestrian Facilities

Pedestrian facilities in the site area consist of sidewalks along all the surrounding streets, including the project frontages along South Market Street, South First Street, and West San Carlos Street as shown in Figure 4.17-1. Crosswalks and pedestrian signal heads are located at all signalized intersections within the project area. The majority of the crosswalks at signalized intersections in the vicinity of the project site consist of high visibility crosswalks and countdown signal heads that enhance pedestrian visibility and safety while crossing the intersections. Sidewalks in the project area are wide and provide a continuous pedestrian network.

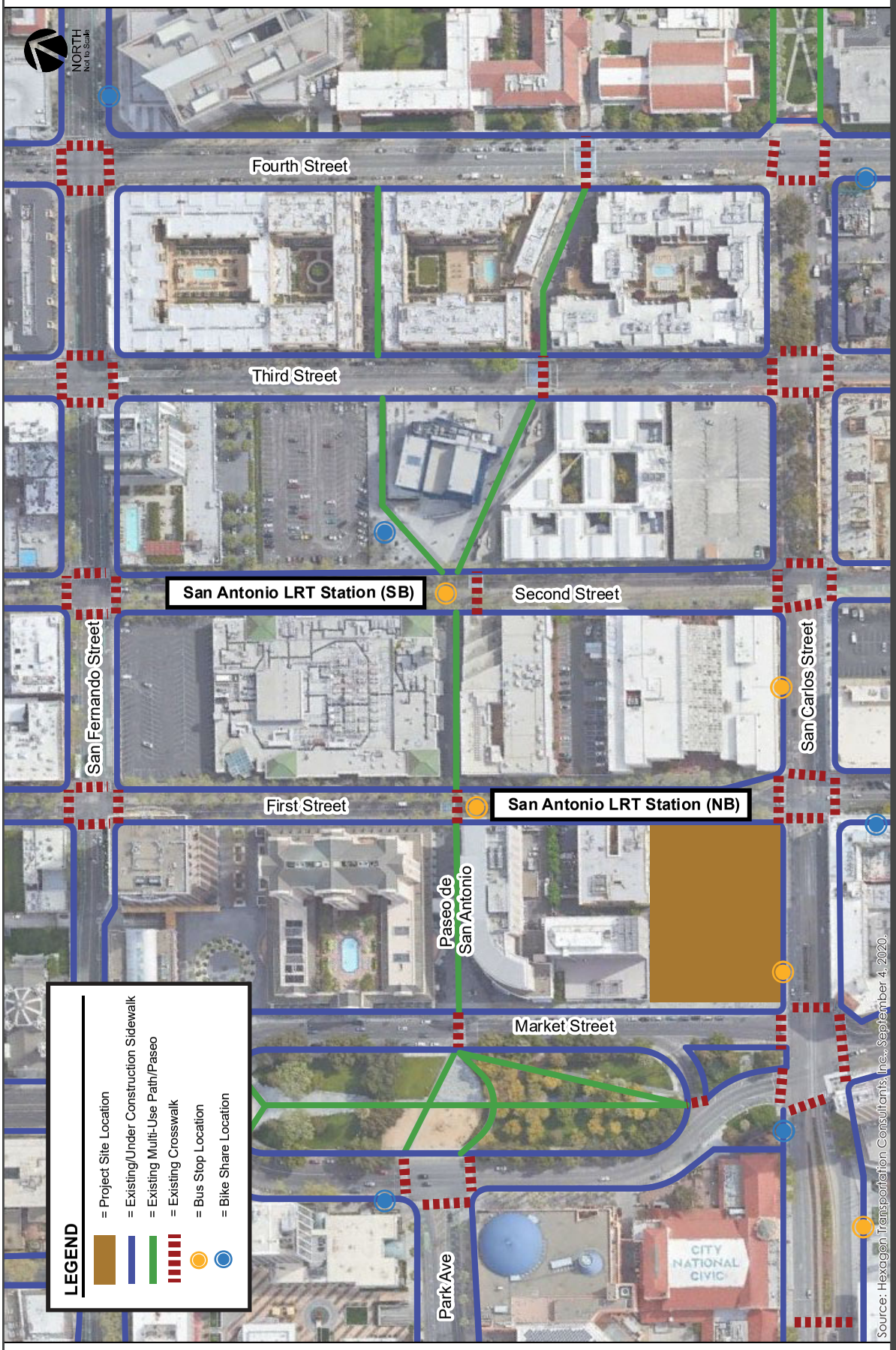


FIGURE 4.17-1

EXISTING PEDESTRIAN FACILITIES

A mid-block crossing across the northbound side of Market Street provides access between the Plaza de Cesar Chavez and Paseo de San Antonio. The paseo provides pedestrian-only access to shops and business along the Paseo de San Antonio between Market Street and San José State University. Another mid-block crossing on San Carlos Street, approximately 400 feet west of the Market Street/San Carlos Street intersection, provides access to the Convention Center Light Rail Transit (LRT) station located within the median of San Carlos Street.

In addition, the City is proposing a reduction in width of Park Avenue between Market Street and Almaden Boulevard. The proposed improvements include narrowing Park Avenue to one travel lane in each direction and removal of the existing median island. The improvements would allow sidewalks to be widened, providing additional space for pedestrians and bicyclists. Crossing distances at crosswalks across Park Avenue also would be shortened.

Proposed intersection improvements at the Almaden Boulevard/Park Avenue and Market Street/Park Avenue intersections include a reduction of curb radii and installation of bulb-outs which typically increase visibility of pedestrians at crosswalks and encourage drivers to slow down before making a right-turn. The proposed improvements are expected to improve the safety and connectivity of pedestrian and bicycle networks within the vicinity of the project site.

Bicycle Facilities

The immediate site vicinity includes two types of bicycle facilities: Class II and Class III bikeways. Class II bikeways (bike lanes) are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments:

- Almaden Boulevard, between Woz Way and Carlysle Street
- Park Avenue, west of Market Street
- Woz Way, between San Carlos Street and Almaden Avenue
- Santa Clara Street, west of Almaden Boulevard
- San Salvador Street, between Market Street and Fourth Street
- Second Street, between Taylor Street and San Carlos Street
- Third Street, between Jackson Street and St. James Street
- Fourth Street, between Jackson Street and Santa Clara Street; between San Salvador Street and Reed Street
- Almaden Avenue, between Alma Avenue and Grant Street
- Vine Street, between Alma Avenue and Grant Street

Class III bikeways (bike routes) are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. In the vicinity of the project site, the following roadway segments are designated as bike routes:

- San Carlos Street, between Woz Way and Fourth Street (including along the south project frontage)
- San Fernando Street, east of Tenth Street
- Second Street, between San Carlos Street and Julian Street

- First Street, between San Salvador Street and St. John Street (including along the east project frontage)
- San Salvador Street, between Fourth Street and Tenth Street (eastbound)
- William Street, between First Street and McLaughlin Avenue

Class IV bicycle facilities (protected bike lanes) are currently being installed throughout the Downtown Area as part of the Better Bikeways project. Protected bike lanes have been implemented along the following roadways:

- San Fernando Street, between Cahill Street and Tenth Street
- Second Street, between San Carlos Street and William Street
- Third Street, between St. James Street and Reed Street
- Fourth Street, between Santa Clara Street and San Salvador Street
- San Salvador Street, between Fourth Street and Tenth Street (westbound)
- Autumn Street, between Santa Clara Street and St. John Street
- Cahill Street, between San Fernando Street and Santa Clara Street

Existing bicycle facilities are shown on Figure 4.17-2.

Guadalupe River Park Trail

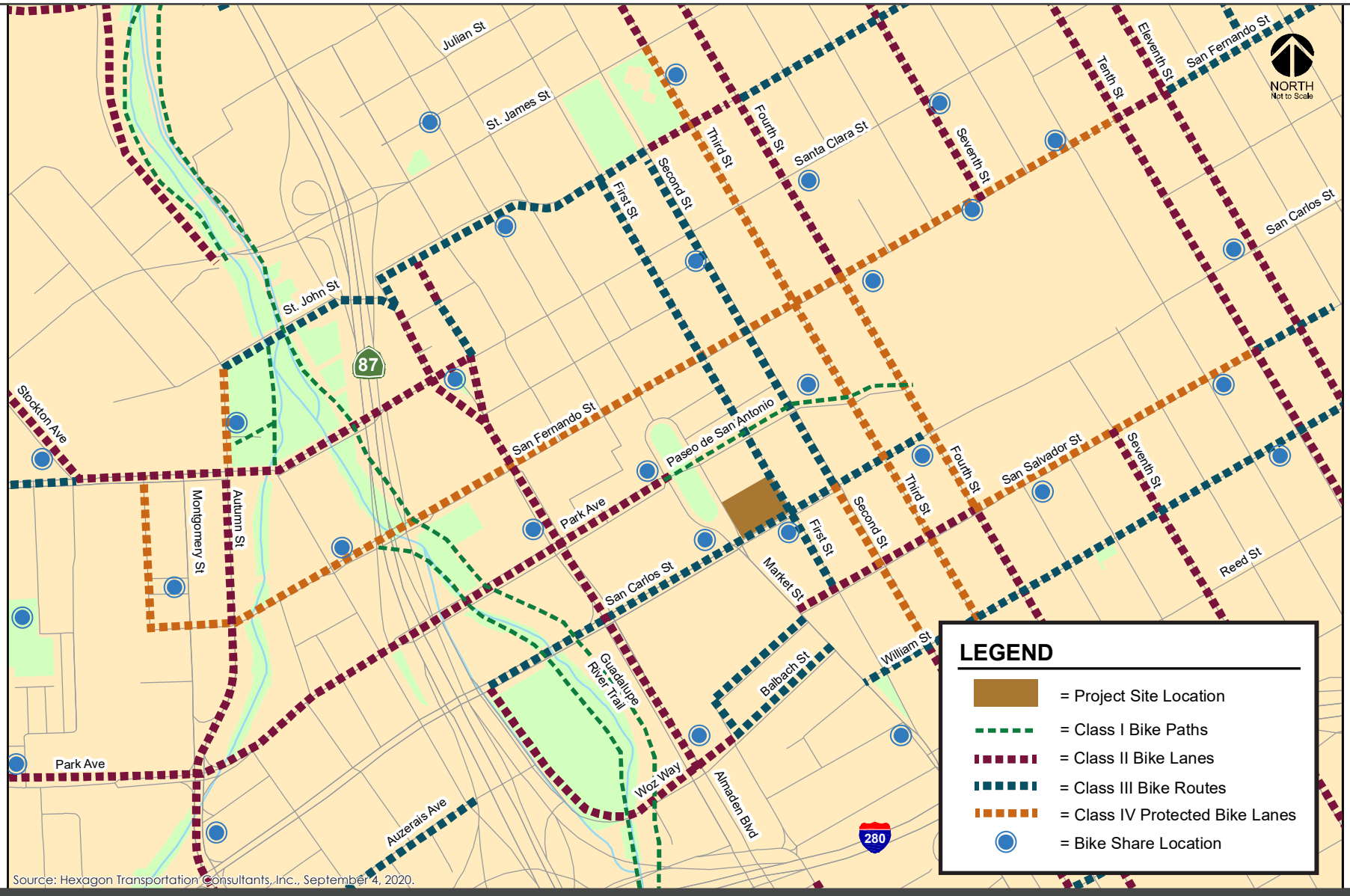
The Guadalupe River Park Trail multi-use trail that runs through the City of San José along the Guadalupe River, is shared between pedestrians and bicyclists, and is separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile Class I bikeway from Curtner Avenue to Willow Street, and between Virginia Street and Palm Street to Alviso. This trail system can be accessed just west of the Almaden Boulevard and San Carlos Street intersection, approximately 1,400 feet west of the project site.

Bike and Scooter Share Services

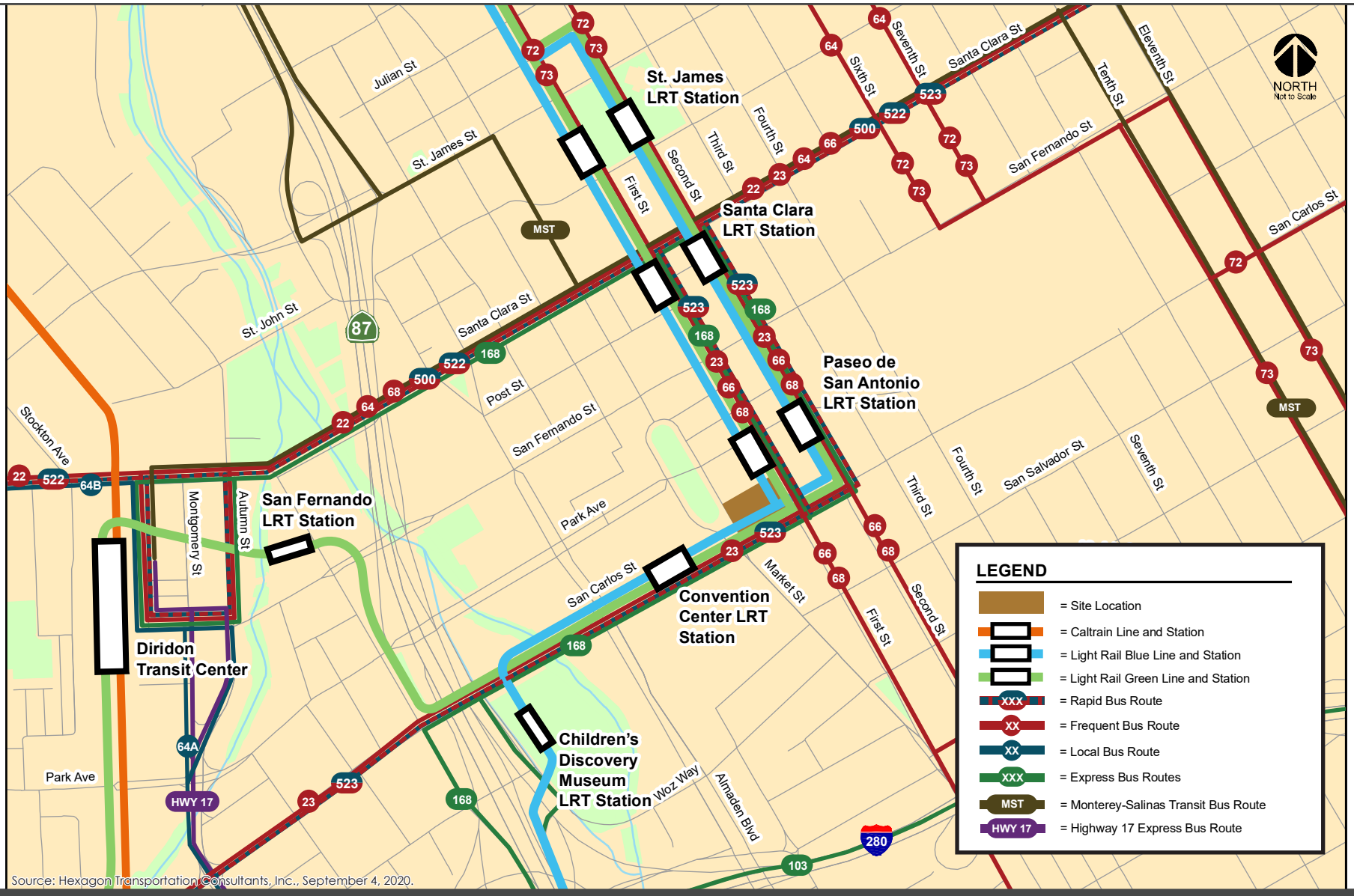
The Bay Wheels (formerly Ford Go Bike) bike share program allows users to rent and return bicycles at various locations. Bike share bikes can be rented and returned at designated docking stations throughout the Downtown area. In addition, dockless bike and scooter rentals are available throughout the Downtown area. These services provide electric bicycles and scooters with GPS self-locking systems that allow for rental and drop-off anywhere. Two bike share stations are located within 100 feet of the project site: one at the northwest corner of the Market Street/San Carlos Street intersection and the second at the southwest corner of the First Street/San Carlos Street intersection.

Transit Facilities

Existing transit services in the project area are provided by the VTA, Santa Cruz METRO, Monterey Salinas Transit MST, Caltrain, Altamont Commuter Express (ACE), and Amtrak., as shown in Figure 4.17-3. The project site is located approximately 350 feet south of the San Antonio Light Rail Station platforms on First Street and Second Street, and approximately one mile from the Diridon Transit Center located on Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center.



EXISTING BICYCLE FACILITIES | FIGURE 4.17-2



EXISTING TRANSIT FACILITIES | FIGURE 4.17-3

Bus Service

The downtown area is served by many VTA bus routes with high-frequency service. Rapid Bus services provide limited-stop service at frequent intervals (less than 15 minutes) during daytime. Within the downtown area, Rapid Routes 522 and 523 run along Santa Clara Street and San Carlos Street, respectively. Additionally, Frequent Bus services provide local service with average headways of 12 to 15 minutes during peak commute hours. Express Bus services provide direct service to and from major employment centers during peak commute hours only. The bus lines that operate within ¼-mile walking distance of the project site are listed in Table 4.17-1 below. The nearest bus stops with local service are located at the southwest corner of the project site on San Carlos Street and along First Street and Second Street adjacent to the northbound and southbound platforms of the San Antonio LRT station.

VTA Light Rail Transit Service

VTA currently operates the 42.2-mile light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24-hours a day with 15-minute headways during much of the day.

The Green (Winchester-Old Ironsides) and Blue (Baypointe-Santa Teresa) LRT lines operate along San Carlos Street, San Fernando Street, and along First and Second Streets, north of San Carlos Street. The San Antonio LRT station platforms on First and Second Street are located less than 500 feet walking distance of the project site. The San José Diridon station is located along the Green LRT line and serves as a transfer point to Caltrain, ACE, and
Amtrak services.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. The project site is located about ¾ mile from the San José Diridon station. Trains stop frequently at the Diridon station between 4:28 AM and 10:30 PM in the northbound direction, and between 6:31 AM and 1:38 AM in the southbound direction. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during commute hours.

Altamont Commuter Express Service

ACE provides commuter rail service between Stockton, Tracy, Pleasanton, and San José during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon and evening with headways averaging 60 minutes. ACE trains stop at the Diridon Station between 6:32 AM and 9:17 AM in the westbound direction, and between 3:35 PM and 6:38 PM in the eastbound direction.

Table 4.17-1: VTA Bus Services in the Project Area			
Route	**Route Description**	**Nearest Stop**	**Headway[1] (minutes)**
Frequent Route 22	Palo Alto Transit Center to Eastridge Transit Center vis El Camino	Satna Clara/First Street	15
Frequent Route 23	De Anza College to Alum Rock Transit Center via Stevens Creek	San Carlos/ Market Street	12-15
Local Route 64A	McKee & White Roads to Ohlone-Chynoweth Station	Santa Clara/First Street	30[2]
Local Route 64B	McKee & White Roads to Almaden Expressway & Camden	Santa Clara/First Street	30[2]
Frequent Route 66	North Milpitas to Kaiser San José	First Street/Paseo de San Antonio	12-15
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	First Street/Paseo de San Antonio	15-20
Frequent Route 72	Downtown San José to Senter & Monterey Roads via McLaughlin	First Street/Santa Clara Street	5-20
Frequent Route 73	Downtown San José to Senter & Monterey Roads via Senter Road	First Street/Santa Clara Street	10-15
Express Route 168	Gilroy/Morgan Hill to San José Diridon Station	Santa Clara Street/Almaden	15-40
Rapid Route 500	San José Diridon Station to Downtown San José	Santa Clara Street/First Street	15-20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	Santa Clara Street/First Street	10-15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	First Street/Paseo de San Antonio	15-20
HWY 17 Express (Route 970)	Downtown Santa Cruz/Scotts Valley to Downtown San José	Diridon Transit Center	20-35
MST 55	Monterey – San José Express	Santa Clara/Almaden	N/A[3]
MST 86	King City – San José/SJ Airport	Santa Clara/Almaden	N/A[4]

[1] Approximate headways during peak commute periods.
[2] Local Routes 64A and 64B provide frequent service between San José Diridon Station and McKee/White, with approximately 15-minute headways during peak commute periods.
[3] Weekday operation consists of one northbound trip and one southbound trip during morning and afternoon/evening commute periods.
[4] Weekday operation consists of one northbound trip during morning commute period and one southbound trip during afternoon/evening commute periods.

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San José Diridon Station eight times during the weekdays between approximately 7:38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during the weekdays between 6:40 AM and 7:15 PM.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant transportation impacts, as described below.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Pedestrian Facilities

As described in Section 4.17.1.2, existing facilities including sidewalks along all project frontages, crosswalks, and a paseo, throughout downtown provide connections to surrounding downtown destinations. As part of the project, new sidewalks and street trees on South Market Street and West San Carlos Street would be installed along the project site frontage. A mid-block crossing across the northbound side of Market Street provides access between Plaza de Cesar Chavez and Paseo de San Antonio Walk. This paseo provides pedestrian-only access to shops and business along Paseo de San Antonio between Market Street and San José State University. Another mid-block crossing on San Carlos Street, provides access to the Convention Center LRT station.

Overall, the existing planned and proposed pedestrian sidewalks and paseos provide good pedestrian connectivity and safe routes to the surrounding pedestrian destinations, including nearby transit stops, the Convention Center and Plaza de Cesar Chavez, as well as various businesses and restaurants surrounding the project site.

In addition, independent of the project, the City is proposing to install a half bulb-out at the northeast corner of the Market Street/San Carlos Street intersection. The curb extension would reduce the crossing distance of the crosswalk between the project site and Market Street island median. The improvement also includes upgrading existing curb ramps, signal modification, and relocation of an existing signal pole at the intersection's northeast corner. The project shall work with the City to ensure that any frontage improvements by the proposed project along Market Street (including the proposed passenger loading zone) would be compatible with the City's proposed Market Street/San Carlos Street intersection improvements.

Implementation of the proposed project would not conflict with any policies or plans including General Plan policies listed in Section 4.17.1.1 regarding pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Bicycle Facilities

As described in Section 4.17.1.2, bicycle facilities are provided along several roadways within the project area. Class III bicycle routes (shared bike lanes) are provided along the West San Carlos Street and South First Street frontages of the project site.

The Guadalupe River multi-use trail is accessible and available to pedestrians and bicyclists just west of the Almaden Boulevard and San Carlos Street intersection, approximately 1,400 feet west of the project site. In addition, two bike share stations are located within 100 feet of the project site. The project would include bicycle parking on-site in accordance with City requirements.

The project includes a 80-foot long passenger loading zone on the west project frontage on Market Street. The loading zone would provide space for three to four vehicles to park. The proposed loading zone may require the removal of one existing on-street parking space. There are no plans to install bike lanes along northbound Market Street on the west project frontage; therefore, the proposed loading zone would not interfere with any bicycle (or pedestrian) facilities. The project would not conflict with any policies or plans regarding bicycle facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Transit Facilities

As described in Section 4.17.1.2, the project site is in proximity to major transit services that would provide for and encourage the use of multi-modal travel options and reduce the use of single-occupant automobile travel. In addition, as described in Section 3.3, the project includes TDM measures to facilitate alternatives to single occupancy vehicle trips. The project would not interfere with plans, ordinances, or policies regarding transit facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

As previously mentioned above, Policy 5-1 has established screening criteria that would be exempt from VMT analysis such as Planned Growth Area with Low VMT and High-Quality Transit. Within the screening criteria, projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5-mile of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum FAR of 0.75 for office projects or components or a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled," the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike, or pedestrian infrastructure.

Per the City's Transportation Policy 5-1, the traffic impacts of the proposed project were analyzed using the City's VMT methodology. The proposed project is within the Downtown growth boundary and is within a low VMT per capita area for commercial uses based upon Figure 3.15-6 of the Downtown Strategy 2040 FEIR.

The Downtown Strategy 2040 FEIR analyzed the potential transportation impacts that could occur from the addition of 4,000 residential units and 3.0 million square feet of office space to the downtown area using the methodology outlined in the City's Transportation Analysis Handbook, per City Council Policy 5-1. The VMT data for the Downtown Strategy 2040 was calculated using the City's Travel Demand Forecasting (TDF) model. It was determined in the Downtown Strategy 2040 FEIR that future development in the downtown is expected to result in low VMT. However, there are limited areas that were identified in the FEIR with potential to result in VMT above the levels set by Policy 5-1. The proposed project site is not located within an area that has the potential to exceed acceptable VMT levels and would not require additional VMT analysis to determine consistency with adopted VMT policies.

As the project is within the downtown core, within the capacity analyzed in the Downtown Strategy 2040 FEIR, and in proximity to other modes of alternative transportation, the project would have a less than significant VMT impact. The project would not result in new or substantially more severe significant VMT impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Vehicular On-Site Circulation

The project driveways would provide an adequate sight distance to access points that would ensure exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling on South Market Street and First Street. Any landscaping and signage should be located in such a way to ensure an unobstructed view for drivers exiting the project site. Based on review of the site plan, adequate site distance in accordance with the American Association of State Highway Transportation Officials standards would be provided by the project.

The project proposes office and commercial use in an urban downtown, which consist of a mix of uses, including office, commercial, park, and residential uses. The project does not propose a new use or a use that is incompatible with the existing mix of uses in the project area. Therefore, the project would not result in hazards due to geometric design features or incompatible uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project result in inadequate emergency access?

Emergency vehicles would be able to access the project site from South Market Street, West San Carlos Street, and South Fist Street. A review of the project's driveway and site access design found the driveways to be sufficient for trucks (including for emergency vehicle access).

There are two driveways proposed for the project. The first would be a one, two-way driveway along South Market Street provides ingress and egress for the proposed on-site parking garage. The driveway is located along the northbound side of Market Street, east of Cesar Chavez Plaza. Turn-movements at this driveway would be restricted to right-in/right-out only operations. The proposed driveway curb-cut shall meet the City's minimum width of 32 feet for a two-way commercial driveway. The second driveway would be located north of San Carlos Street along First Street and would primarily provide access to loading docks and trash collection facilities. The existing driveway curb-cut is 16-feet wide and the project would extended the width to approximately 38 feet. Therefore, this driveway would meet the City's 32-foot width requirement for two-way commercial driveways.

In addition, the final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. The project would not result in new or substantially more severe significant emergency access impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Non-CEQA Effects

Vehicle Queuing

A vehicle queuing analysis was completed at key intersections in the project site vicinity. The queuing analysis shows that the eastbound left-turn movement at the South Market Street and West San Carlos Street intersection currently experiences vehicular queue lengths that exceed the existing storage capacity during both AM and PM peak hours and would continue to do so under background conditions.[96] The addition of project traffic is projected to lengthen the queue during both peak hours. The projected storage deficiencies could only be improved by lengthening the left-turn pocket. However, due to the presence of light rail tracks within the center median of West San Carlos Street, no improvements are feasible for the eastbound left-turn pocket.

The project's proximity to major transit services and bicycle facilities would provide for and encourage the use of multi-modal travel options and reduce the use of single-occupant automobile drives. It is expected that the auto trips ultimately generated by the project would be less than those estimated in the queueing analysis and the above identified operational deficiencies (queues at intersection) reduced as development and the planned enhancement of the multi-modal transportation system progresses within the downtown area.

Bicycle Parking

The project proposes to provide bicycle parking in accordance with the City's Municipal Code (Table 20-190), which requires one bicycle parking space per 4,000 square feet of office space. The bicycle parking would consist of at least 80 percent short-term and at-most 20 percent long-term spaces.

Vehicle Parking

The project proposes to meet the vehicular parking requirements in the City's Municipal Code (Table 20-140), which requires 2.5 off-street parking spaces per 1,000 square feet of office use. No additional parking spaces are required for the commercial/retail use.

[96] Background conditions include existing traffic volumes plus estimated traffic from approved but not yet occupied or constructed developments.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State and Regional

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.1.2 *Existing Conditions*

The project site is located approximately 0.3 mile west of Guadalupe River, which is considered a highly sensitive area for prehistoric and archaeological deposits (including TCRs). No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

Consistent with the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant tribal cultural resources impacts, as described below.

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be significantly impacted by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency.

On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground-disturbing activities, and that such requests may be sent via e-mail only for future projects that

require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. On February 19, 2020 , the Ohlone Indian Tribe representative was notified via e-mail and certified mail of the proposed project and received a copy of the revised NOP. At the time of the preparation of this Draft EIR, no response was received, and it is presumed the consultation request has been declined. In addition, as discussed in Section 3.18.1.2 Existing Conditions, there are no known TRCs on-site.

While there is the potential for unknown Native American artifacts or human remains to be present in the project area, impacts would be less than significant with implementation of the City's project conditions related to discovery of archaeological resources or human remains (described in detail in Section 3.5 Cultural Resources). **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

See discussion under checklist question a). **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

The following discussion is based on a Water Supply Assessment completed for the project by San Jose Water dated April 2020. A copy of this report is included in Appendix H.

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 32

The Mandatory Commercial Recycling Measure is part of Assembly Bill 32 (California Global Warming Solutions Act) Scoping Plan, which was adopted by CARB. The Mandatory Commercial Recycling Measure focuses on diverting commercial waste as a means to reduce GHG emissions, with the goal of reducing GHG emissions by five million metric tons of $MTCO_2e$. To achieve the measure's objective, an additional two to three million tons of materials annually will need to be recycled from the commercial sector by the year 2020 and beyond.[97]

Regional and Local

Countywide Integrated Waste Management Plan

Pursuant to Assembly Bill 939, solid waste facility compliance require that each county prepare and adopt a Countywide Integrated Waste Management Plan. The Santa Clara County Integrated Waste Management Plan (CIWMP) was approved in 1996 and contains goals, policies, and objectives aimed to ensure an effective and efficient integrated waste management system.

Public Resources Code Sections 41770 and 41822, and Title 24, California Code of Regulations Section 18788 require that each countywide or regional agency integrated waste management plan (CIWMP/RAIWMP), and elements thereof, be reviewed, revised (if necessary), and submitted to the Department of Resources Recycling and Recovery (CalRecycle) every five years. The last such review was completed in 2016 and concluded that despite population growth, solid waste diversion has increased, Santa Clara County has adequate disposal capacity (i.e., greater than 15 years or beyond 2026), and no revisions to the CIWMP is warranted.[98]

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to utilities and service systems and are applicable to the project.

General Plan Policies – Utilities & Service Systems	
Water Conservation and Quality Policies	
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Water Conservation Policies	
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

[97] CalRecycle. "Mandatory Commercial Recycling." Accessed October 24, 2019. https://www.calrecycle.ca.gov/recycle/commercial
[98] CalRecycle. *Five-Year CIWMP/RAIWMP Review Report Template.* October 27, 2016.

General Plan Policies – Utilities & Service Systems	
General Provision of Infrastructure Policies	
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.
IN-1.6	Ensure that public facilities and infrastructure are designed and constructed to meet ultimate capacity needs to avoid the need for future upsizing. For facilities subject to incremental upsizing, initial design shall include adequate land area and any other elements not easily expanded in the future. Infrastructure and facility planning should discourage over-sizing of infrastructure which could contribute to growth beyond what was anticipated in the 2040 General Plan.
Water Supply, Sanitary Sewer, and Storm Drainage Policies	
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

General Plan Policies – Utilities & Service Systems	
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Solid Waste – Materials Recovery/Landfill Policies	
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
Development Fees, Taxes, and Improvement Requirements Policies	
IP-15.2	To finance the construction and improvement of facilities and infrastructure systems for which the demand for capacity cannot be attributed to a particular development, consider a series of taxes or fees through which new growth collectively finances those facilities and systems, as follows: 1. Construction Tax and the Conveyance Tax (the latter paid in connection with any transfer of real property, not just new development) provide revenue for parks, libraries, library book stock, fire stations, maintenance yards and communications equipment. 2. The Building and Structures Tax and Commercial/Residential/Mobile home Park Tax provide revenue for the construction of San José's major street network. 3. Connection Fees provide revenue for the construction of storm sewers, sanitary sewers and expansions of sewage treatment capacity at the Water Pollution Control Plant. 4. Fees and taxes may need to be adjusted from time to time to reflect changing costs and new requirements. Additionally, new fees or taxes may need to be imposed to finance other capital and facility needs generated by growth. 5. Where possible, if a developer constructs facilities or infrastructure for which these taxes are imposed, the developer may be provided with corresponding credits against the applicable taxes or fees.
Environmental Leadership/Stewardship Policies	
IP-17.1[99]	Use San José's adopted Green Vision as a tool to advance the 2040 General Plan Vision for Environmental Leadership. San José's Green Vision is a comprehensive fifteen-year plan to create jobs, preserve the environment, and improve quality of life for our community, demonstrating that the goals of economic growth, environmental stewardship and fiscal sustainability are inextricably linked. Adopted in 2007, San José's Green Vision, adopted in 2007, establishes the following Environmental Leadership goals for the City through 2022: 5. Divert 100 percent of the waste from our landfill and convert waste to energy; Although the City has one of the highest waste diversion rates of any large city in the nation, many waste reduction opportunities remain. If San José and other local cities achieve no further waste reduction efforts over the next 15 years, solid waste landfill space in the region could reach capacity.

[99] Policy IP-17.1, as shown, is modified in this list to reflect only those items relevant to the discussion of solid waste.

Zero Waste Strategic Plan/Green Vision

The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community. The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation, including 75 percent waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

4.19.1.2 *Existing Conditions*

Water Service and Supply

The City of San José adopted its most recent UWMP in 2015. Water service to the downtown area is provided by the San José Water Company, which gets its water from a variety of sources including groundwater, imported surface water, and local mountain surface water. The project site is served by 10-inch diameter water lines in South Market Street and West San Carolos Street, and a 12-inch diameter water line in South First Street. Recycled water system does not extend to the project site.[100]

Storm Drainage System

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. As discussed in Section 4.10 Hydrology and Water Quality, stormwater runoff from the site flows into a 10-inch diameter storm drain line in South Market Street. The runoff discharges to the Guadalupe River, approximately 0.3 miles west of the project site, and is ultimately conveyed to the San Francisco Bay.

Wastewater/Sanitary Sewer System

Wastewater from the City of San José is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility), which is administered and operated by the City Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons per day (mgd) of wastewater.[101] The City's share of the Facility's treatment capacity is approximately 108.6 mgd. Based on the average dry weather flows

[100] South Bay Water Recycle. *Recycled Water Pipeline System.* Map. July 28, 2011.
[101] City of San José. *Water Pollution Control Capital Program 2016-2020 - Adopted Capital Improvement Program.* Accessed March 27, 2019. http://www.sanjoséca.gov/DocumentCenter/View/46177.

from sources in San José (approximately 69.8 mgd), the City current has approximately 38.8 mgd of available treatment capacity at the Facility.[102] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility.

The project site does not currently include facilities on-site that generate wastewater. Sanitary sewer lines in the project area include a 12-inch diameter sewer line in South Market Street, 10-inch diameter sewer line in West San Carolos Street, and 15-inch diameter sewer line in South First Street.

Solid Waste

Landfills located within Santa Clara County include the Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills. As discussed above, according to the County's 2016 Five-Year CIWMP review report, the County has adequate disposal capacity (i.e., greater than 15 years or beyond 2026).

The City of San José has an existing contract to dispose of its solid waste at Newby Island Sanitary Landfill (NISL). In December 2019, NISL has approximately 14.6 million cubic yards of capacity remaining and an estimated closure year of 2041.[103]

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐

[102] City of San José. *General Plan FPEIR*. September 2011. Page 648.
[103] North, Daniel. General Manager, Republic Services. Personal communications. November 14, 2019.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
c) 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 provider's existing commitments?	☐	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Consistent with the conclusion for the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

The project would require connections to existing water, sewer, and storm drain, electric, natural gas, and telecommunication facilities. Relocation of existing utilities is not required.

It is anticipated that the existing water lines and system have adequate capacity to serve the project's domestic and landscaping needs.[104]

As discussed in Section 4.10 Hydrology and Water Quality, the project would result in a net decrease of 621 square feet of impervious surfaces, which would result in a corresponding decrease in surface runoff from the site compared to existing conditions. For this reason, the existing storm drain system would continue to accommodate surface runoff from the site under the project conditions.

It is estimated that the project would generate approximately 0.07 mgd of wastewater that would need to be treated at the Facility. As discussed in Section 4.19.1.2, sources in the City generate approximately 69.8 mgd of wastewater and the City has approximately 38.8 mgd of remaining

[104] Bariteau, Jim. Senior Water Services Representative, San José Water Company. Personal communications. June 30, 2020.

available treatment capacity at the Facility. There is sufficient capacity at the Facility to treat wastewater generated from the build-out of the General Plan (which includes the growth anticipated from the build-out of the Downtown Strategy 2040) and no new or expanded wastewater treatment capacity is required and the RWQCB effluent limit of 120 mgd would not be exceeded.[105]

The City, therefore, has sufficient available treatment capacity at the Facility to treat the project's wastewater. Based on the project's peak sanitary flow rate of 520 gallons per minute[106], the project's single connection to the existing sanitary sewer line in South Market Street, and a review of the existing sanitary sewer system infrastructure, the City has confirmed that the existing local and downstream sanitary sewer lines are adequate to accommodate the project's wastewater.

Based on the above discussion, no relocation or construction of new or expanded utilities or treatment facilities would be required to serve the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

It is estimated that the project would have a water demand of approximately 66,925 gallons per day. Potable water would be provided to the proposed project by San José Water Company and would be sourced from groundwater, imported treated surface water, and local surface water. The Water Supply Assessment (WSA) prepared by the San José Water Company for Downtown Strategy 2040 determined there are sufficient water supplies during normal, dry, and multiple dry years to serve the developed envisioned in the Downtown Strategy 2040 (including the project).[107] The project-specific WSA completed for the project and included in Appendix H confirmed there continues to be sufficient water supplies during the normal, dry, and multiple dry years for the project, as well as the growth envisioned in the Downtown Strategy 2040. Consistent with the conclusion in the Downtown Strategy FEIR, there is sufficient water supplies to serve the project. The project would not result in new or substantially more severe significant water supply impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project 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 provider's existing commitments?

As discussed under checklist question a), the City has sufficient, available treatment capacity at the Facility to accommodate the project's wastewater. The project would not result in new or substantially more severe significant wastewater treatment impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

[105] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH 2003042127. Page 333.
[106] So, Jacky. Project engineer, Kier & Wright. Personal communications. June 18, 2020.
[107] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH 2003042127. Pages 331-333.

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

It is estimated that the project would generate approximately 38,435 pounds (or 21 cubic yards) of solid waste per year.[108] The solid waste generation by the proposed uses was included in the analysis in the Downtown Strategy 2040 FEIR. The Downtown Strategy 2040 FEIR concluded there was sufficient landfill capacity to accommodate solid waste generated from the build-out of the Downtown Strategy 2040 (which includes the development proposed) given the adequate disposal capacity confirmed in the County's 2016 Five-Year CIWMP Review report (which accounts for the remaining, available capacity at NISL) and existing regulations (see Section 4.19.1.1 Regulatory Framework).[109]

The project would be required to comply with the state and local regulations described in Section 4.19.1.1 Regulatory Framework regarding construction and demolition recycling and on-site recycling collection to assist the attainment of solid waste reduction goals. The project would not result in new or substantially more severe significant solid waste impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)] [Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

The construction and operation of the project would comply with federal, state, and local regulations related to diversion of materials from disposal and appropriate disposal of solid waste. **[Same Impact as Approved Project (Less than Significant Impact)]**

[108] The solid waste generation for the project was estimated using the solid waste generation rate of 10.53 pounds per employee per day (source: City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH 2003042127. Table 3.16-4.). The number of project employees is estimated assuming 1 employee per 250 square feet of commercial/retail uses and one employee per 175 square feet of office uses (source: Strategic Economics. *San José Market Overview and Employment Lands Analysis.* January 20, 2016. Figure V-9.). A reasonable compaction rate of 1,850 pounds per cubic yard was assumed (source: North, Daniel. General Manager, Republic Services. Personal communications. November 21, 2019.)

[109] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH 2003042127. Pages 335-336.

4.20 WILDFIRE

4.20.1 Environmental Setting

The project site is located in urbanized, downtown San José. The project site is not located in or near a designated state or local fire hazard severity zone.[110]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

As stated above in Section 4.20.1 Environmental Setting, the project site is not located in or near a designated state or local fire hazard severity zones. The project, therefore, would not result in wildfire impacts. **[Same Impact as Approved Project (No Impact)]**

[110] Sources: (1) California Department of Forestry & Fire Protection. *Santa Clara County, Fire Hazard Severity Zones in SRA.* November 7, 2007. (2) California Department of Forestry & Fire Protection. *Santa Clara County, Draft Fire Hazard Severity Zones in LRA.* October 4, 2007.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

4.21.1 Impact Discussion

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

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of the required measures and conditions. As discussed in Section 4.4 Biological resources, the project would implement required measures and conditions to reduce impacts to biological resources to a less than significant level. In addition, as discussed in Section 4.5 Cultural Resources, the project would not result in significant impacts to cultural resources.

The project would, however, result in a significant shade and shadow impact on Plaza de Cesar Chavez which is discussed in the Supplemental EIR prepared for the project. **(New Significant Unavoidable Impact)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed development would result in temporary air quality, water quality, biology, and noise impacts during construction. With the implementation of the identified mitigation measures, conditions of project approval, and standard permit conditions, as well as consistency with adopted City policies, these construction-related impacts would be reduced to a less than significant level. As the identified impacts are temporary and would be reduced to a less than significant level, the project would not have cumulatively considerable impacts on air quality, water quality, biology, and noise in the project area.

The project would have a less than significant impact on aesthetics, geology and soils, hazards and hazardous materials, hydrology and water quality, recreation, and utilities and service systems, and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forest resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project would contribute to the significant, cumulative air quality, GHG, traffic-related noise, and population and housing impacts that would occur under full build-out of the Downtown Strategy 2040 and General Plan. The project would not, however, result in any new or substantially more severe significant cumulative impacts than disclosed in the Downtown Strategy and General Plan FEIRs. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans**. (Same Impact as Approved Project [Significant Unavoidable Impact])**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air pollutants, geological hazards, hazardous materials, and noise.

With the implementation of the identified mitigation measures and conditions in Sections 4.3 Air Quality, 4.7 Geology and Soil, 4.9 Hazards and Hazardous Materials, and 4.13 Noise, the project would not result in significant impacts pertaining to those resources. No other direct or indirect adverse effects on human beings are anticipated. As discussed under checklist question b), the project would contribute to significant unavoidable cumulative air quality and noise impacts identified in the Downtown Strategy 2040 FEIR. **(Same Impact as Approved Project [Significant Unavoidable Impact])**

SECTION 5.0 REFERENCES

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SECTION 7.0 ACRONYMS AND ABBREVIATIONS

ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos containing material
AIA	Airport Influence Area
ALUC	Airport Land Use Commission
APN	Assessor Parcel Number
BAAQMD	Bay Area Air Quality Management District
BGS	Below ground surface
BMPs	Best Management Practices
Btu	British thermal units
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CAL FIRE	California Department of Forestry and Fire Protection
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CARB	California Air Resources Board
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CGS	California Geological Survey
CH_4	Methane
CIWP	County Integrated Waste Management Plan
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CO	Carbon monoxide
CO_2	Carbon dioxide
CO_{2e}	Carbon dioxide equivalent
CRHR	California Register of Historic Resources
DASH	Downtown area shuttle

DPNS	Downtown Pedestrian Network Street
DSMP	Downtown Streetscape Master Plan
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
EV	Electric vehicle
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FTA	Federal Transit Administration
GHG	Greenhouse gas
GWh	Gigawatt hours
HFCs	Hydrofluorocarbons
HI	Hazard Index
HOV	High-occupancy vehicle
I-280	Interstate 280
LED	Light emitting diode
LID	Low Impact Development
LOS	Level of Service
LRT	Light Rail Transit
MBTA	Migratory Bird Treaty Act
MEI	Maximum exposed individual
MFS	Media filter system
mgd	Million gallons per day
$MMTCO_2e$	million metric tons of CO_2E
mpg	Miles per gallon
MRP	Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit
MTC	Metropolitan Transportation Commission
N_2O	Nitrous oxide
NFIP	National Flood Insurance Program

NISL	Newby Island Sanitary Landfill
NO_x	Nitrogen oxides
NOI	Notice of Intent
NOT	Notice of Termination
NRHP	National Register of Historic Places
O_3	Ozone
OPR	Office of Planning and Research
OSHA	Occupational Safety and Health Administration
PDAs	Priority Development Areas
PDO	Park Dedication Ordinance
PFCs	Perfluorocarbons
PG&E	Pacific Gas & Electric
PIO	Park Impact Ordinance
PM	Particulate matter
PM_{10}	Respirable particulate matter
$PM_{2.5}$	Fine particulate matter
PPV	Peak Particle Velocity
RHNA	Regional Housing Need Allocation
ROG	Reactive organic gases
RTP	Regional Transportation Plan
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SBWR	South Bay Water Recycling
SCH	State Clearinghouse
SCIA	Sewer Capacity Impact Analysis
SCS	Sustainable Communities Strategy
SFHA	Special Flood Hazard Area
SHMA	Seismic Hazards Mapping Act
SF_6	Sulfur hexafluoride
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department

SJUSD	San José Unified School District
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SO_x	Sulfur oxides
SR	State Route
SSOs	Sanitary sewer overflows
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TACs	Toxic Air Contaminants
TCMs	Transportation Control Measures
TCRs	Tribal Cultural Resources
TDF	Travel Demand Forecasting
TDM	Transportation demand model
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	Urban water management plan
VMT	Vehicle miles traveled
VTA	Santa Clara Valley Transportation Authority
WSA	Water Supply Assessment
ZNE	Zero Net Carbon Emissions