ADDENDUM TO THE SAN JOSE DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003042127); AND ADDENDA THERETO

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the San José Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy FEIR) and addenda thereto because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

SP21-045 & ER21-312 – Terraine Mixed-Use Project. The project consists of a Special Use Permit to develop an approximately 1.57-acre vacant lot over two phases. Phase I of the project would consist of the construction of a 17-story, 345-unit residential tower and a nine-level parking tower on a shared podium. The podium would cover the entire site and would include one below-grade level and one at-grade level of parking. The below-grade level would have a depth of approximately 20 feet. The podium would contain parking for vehicles and bicycles, loading areas, mechanical rooms, and lobbies. The podium would also include up to 11,777 square feet of ground floor retail space. A landscaped/open space area would be located between the residential tower and parking tower and on the ground floor of the podium. Phase II of the project would consist of the conversion of the parking tower into an office building with approximately 210,328 square feet of office space.

Location: Southwest Corner of Bassett Street and Terraine Street in San José

Assessor's Parcel Number: 259-24-020, 259-24-040, and 259-24-041 **Council District:** 3

The environmental impacts of this project were addressed by the following Final Environmental Impact Report: "The Downtown Strategy 2040 Final Environmental Impact Report," adopted by City Council Resolution No. 78942 on December 18, 2018; and addenda thereto.

The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that "A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred." Circumstances which would warrant a subsequent EIR include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIR due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

The following impacts were reviewed and found to be adequately considered by the EIR cited above:

☒Aesthetics	☒Agriculture Resources	☒Air Quality
☒Biological Resources	☒Cultural Resources	☒Geology and Soils
☒Greenhouse Gas Emissions	☒ Hazardous Materials	☒Hydrology & Water Quality
☒Land Use	☒Mineral Resources	☒Noise
☒Population and Housing	☒Public Services	☒Recreation
☒Transportation/Traffic	☒Utilities & Service Systems	☒Energy
☒Growth Inducing	☒Cumulative Impacts	☒Mandatory Findings of Sig.

ANALYSIS

In December 2018, the City of San José certified the Downtown Strategy 2040 Environmental Impact Report

(Resolution No. 78942). The Downtown Strategy 2040 FEIR responded to changed environmental circumstances and conditions since the Downtown Strategy 2000 FEIR was adopted by City Council in 2005.

The Downtown Strategy FEIR was a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of Strategy 2040:

- 14.2 million square feet of office development;
- 14,360 residential dwelling units;
- 1.4 million square feet of retail development; 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. Phase I of the project comprises the construction of a 17-story, 345-unit residential tower and a nine-level parking tower on a shared podium. Phase II of the project would involve converting the parking tower into an office building with approximately 210,328 square feet of office space. As analyzed in the attached Initial Study, the project has conducted project-level analysis and disclose potential project-level impacts. Consistent with the Downtown Strategy 2040 FEIR, the Project will implement conditions and mitigation measures to reduce all potential impacts to a less than significant level.

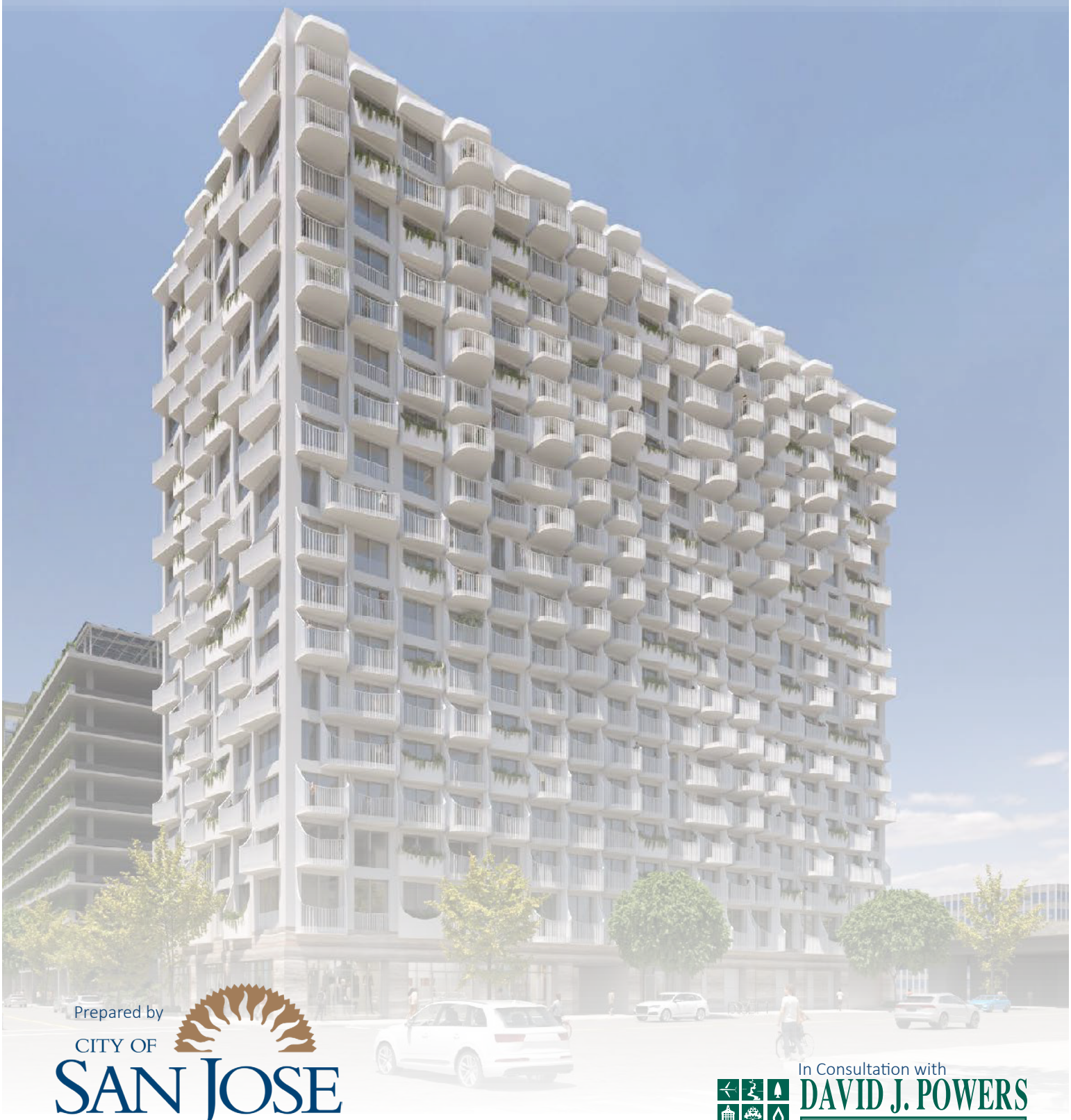
The scale and scope of the project is within the development capacity analyzed in the Downtown Strategy 2040 FEIR. No new or more significant environmental impacts beyond those identified in the Downtown Strategy 2040 FEIR have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIR been identified. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the FEIR. For these reasons, a supplemental or subsequent EIR is not required, and an Addendum thereto has been prepared for the proposed project.

The attached Initial Study provides background on the project description, specific project impacts, and the relationship between previous mitigation measures and the revised project. This addendum (including Initial Study) will not be circulated for public review, but will be attached to the Downtown Strategy FEIR, General Plan FEIR, and General Plan SEIR as supplemented pursuant to CEQA Guidelines §15164(c).

Nhu Nguyen Environmental Project Manager	Christopher Burton, Director Planning, Building and Code Enforcement
3/14/24	
Date	Deputy

Initial Study/Addendum

Terraine Mixed-Use Project



Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

March 2024

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Appendices

All appendices are incorporated herein by reference.

Section 1.0 Introduction and Purpose

1.1 Purpose of the Initial Study/Addendum

This Initial Study (IS)/Addendum 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 §15000 et seq.), and the regulations and policies of the City of San José.

1.1.1 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 IS/Addendum provides that subsequent project-level environmental review.

1.2 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

Terraine Residential Project

2.2 Lead Agency Contact

Nhu Nguyen, Planner I
200 East Santa Clara Street
San José, CA 95113
nhu.nguyen@sanjoseca.gov
(408) 535-6894

2.3 Project Applicant

Project Terraine LLC

2.4 Project Location

Southwest Corner of Bassett Street and Terraine Street, (Figure 2.4-1, Figure 2.4-2, and Figure 2.4-3).

2.5 Assessor's Parcel Number

APNs 259-24-020, 259-24-040, and 259-24-041

2.6 General Plan Designation and Zoning District

The site has a General Plan designation of Downtown (DT) and is located in the Downtown Primary Commercial (DC) Zoning District.

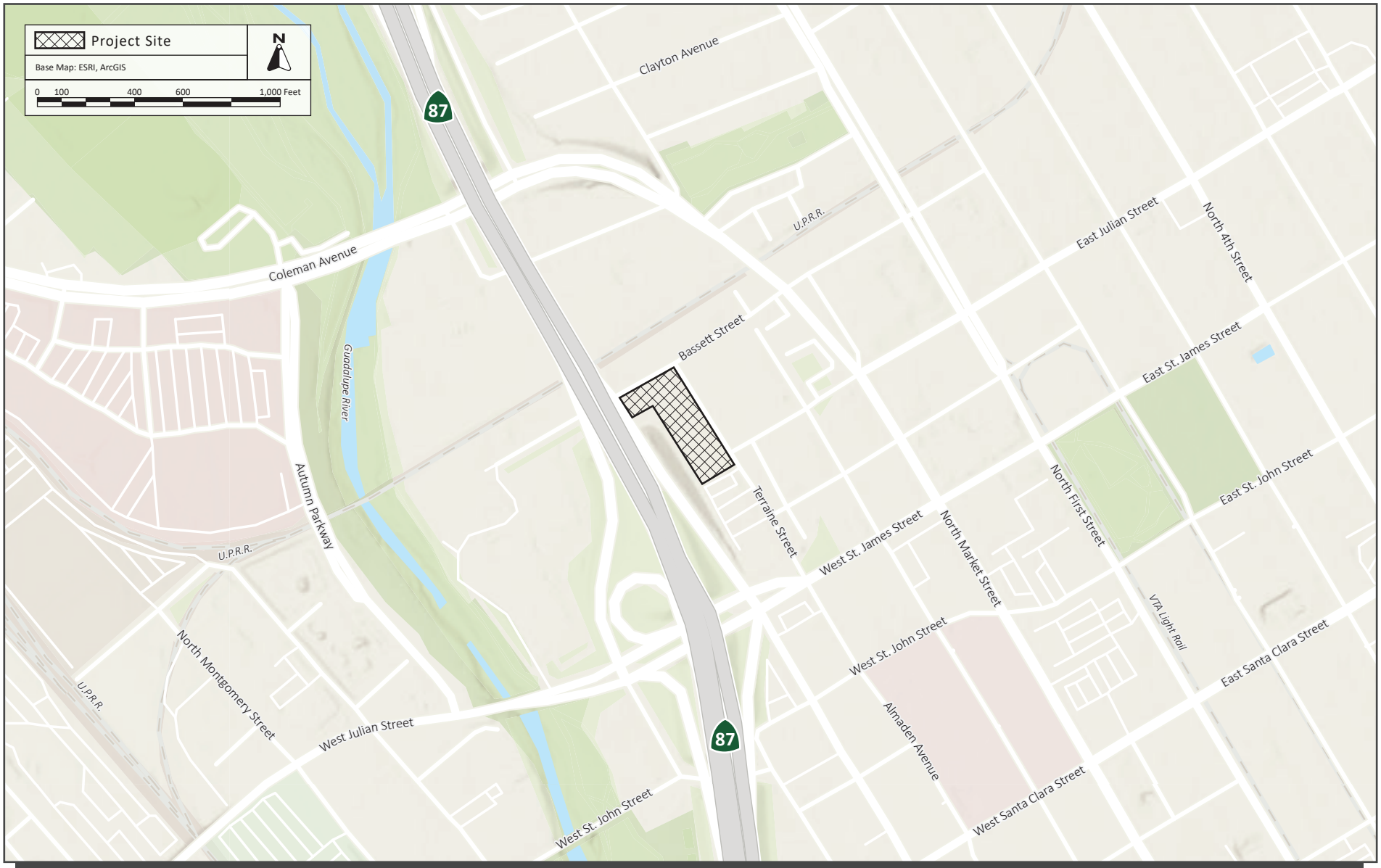
2.7 Habitat Plan Designation

Urbanland

2.8 Project-Related Approvals, Agreements, and Permits

- Grading and Building Permit(s)
- Special Use Permit
- Parcel Map
- Department of Public Works Clearances
- Public Improvement Permit

REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

Section 3.0 Project Description

3.1 Existing Conditions

The project site is an approximately 1.57-acre vacant lot comprising three contiguous parcels located at the southwest corner of Terraine Street and Bassett Street (APNs 259-24-020, 259-24-040, 259-24-041). The project site is bordered on the east and north by roadways, Terraine Street and Bassett Street, respectively. Across Terraine Street is a five-story, multi-family residential development and across Bassett Street is a six-story multi-family residential development. The west side of the project site is bounded by State Route (SR) 87, which is elevated above the site on an embankment, and on the south side of the site there is a parking lot. There is an existing concrete pad located on the northwest side of the site which covers approximately one-eighth of the site. Other than the concrete pad, the project site has scattered bushes and grasses but no structures. There are two driveways providing vehicle access to the site. One driveway is located at the southeast corner of the site and is accessed from Terraine Street, and the other driveway is located on the north side of the site and is accessed from Bassett Street. The site has a General Plan designation of Downtown (DT) and is located within the Downtown Primary Commercial (DC) Zoning District.

3.2 Proposed Project

As proposed, the project's first phase would be the construction of two towers on a shared podium. The podium would cover the entire site and would include one below-grade level and one at-grade level of parking. The below-grade level would have a depth of approximately 20 feet. The podium would contain parking for vehicles and bicycles, loading areas, mechanical rooms, and lobbies. The podium would also include ground floor retail space. A landscaped/open space area would be located between the towers and on the ground floor of the podium. The project layout and elevations are shown in Figures 3.2-1 and 3.2-2 respectively.

The second phase of the project would convert the parking tower into an office building with approximately 210,328 square feet of office space.

3.2.1 Phase 1: Construct Residential Project and Podium with Attached Parking Tower

3.2.1.1 *Residential Tower*

The proposed 345-unit residential tower would be on the northern end of the project site and would be 17 stories (200 feet) tall, on top of a podium level. Residential units would be located on floors two through 17. Amenity spaces for the residential tenants would be located on the second floor of the tower, including a pool area, lounge, and coworking area. The podium level area would include an amphitheater area positioned adjacent to the amenity space and up to 11,777 square

feet of ground floor retail. A barrier and/or fence would be constructed along the edge of the courtyard area.

3.2.1.2 *Parking Tower*

The proposed parking tower would be located at the southern end of the project site and would have nine parking levels over the podium, with a total height of 150 feet. The parking tower would have up to 621 vehicle parking spaces, including 202 stacked spaces on the below-grade level and 62 electric vehicle (EV) parking spaces. In addition, the site would have approximately 256 bicycle parking spaces in secure bike rooms on-site. A solar array would cover a portion of the rooftop.

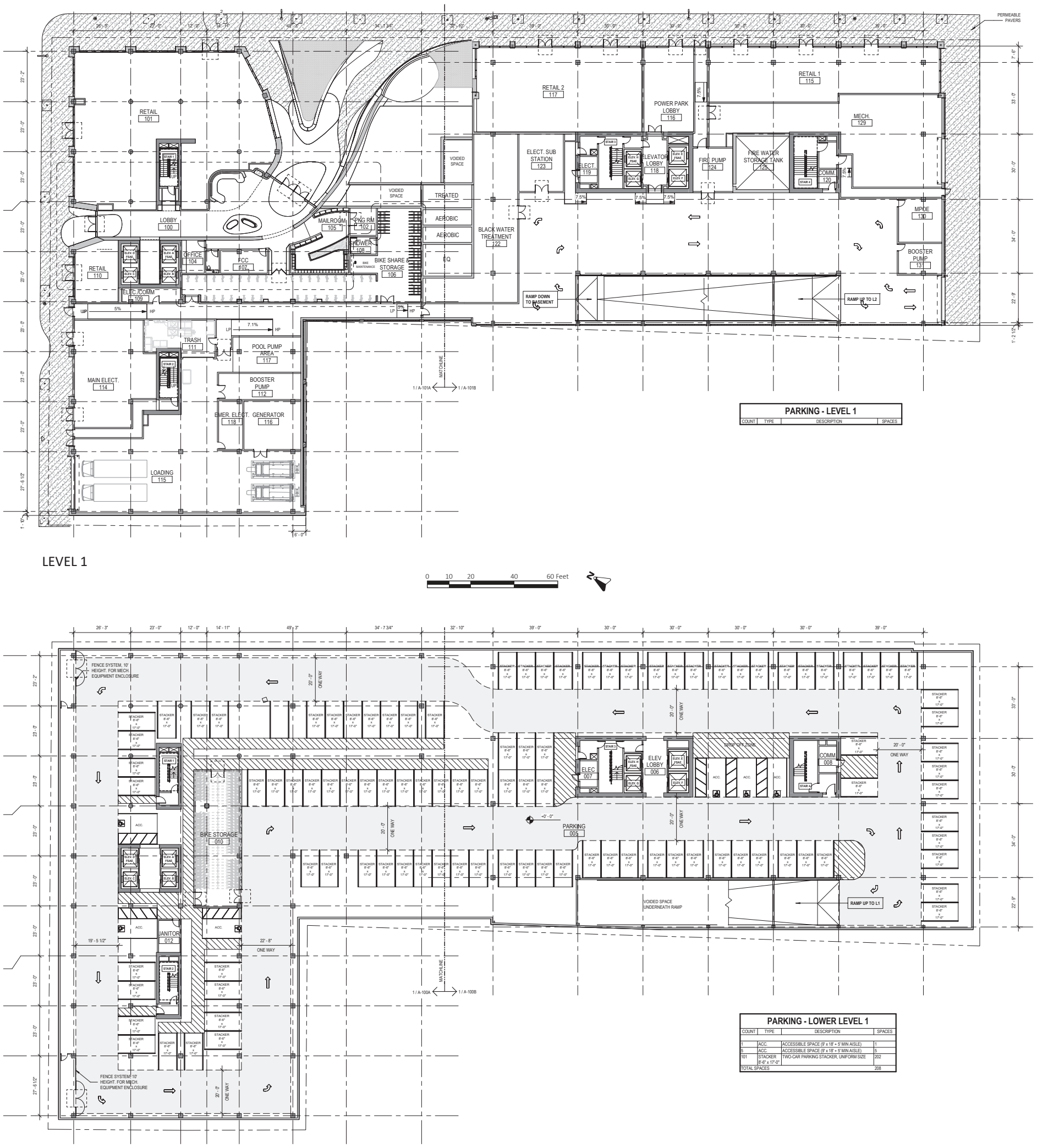
Driveway access to the parking would be provided along the southeastern property line off West Julian Street. Additionally, deliveries and trash pickup for the project site would be accessed from an off-street loading zone, accessible by a proposed new driveway off Bassett Street along the north project frontage. This area would be within the podium on the ground floor. The project proposes a seven-foot-wide sidewalk on the Bassett Street frontage and approximately 14-foot sidewalk on the Terraine Street frontage of the project site. Any areas where curbs and sidewalks are impacted, they would be replaced in kind to the specifications of the City of San José.

3.2.2 Phase 2: Convert Parking Tower to Office Tower

As proposed, the parking tower is designed to allow future conversion into an office building. When the parking tower is converted, it would result in approximately 210,328 square feet of office space and reduce the overall parking on-site by 325 spaces. The basement level would be retained as parking, as originally designed, with only minor changes to provide direct access to the office floors.

Features of the project design that would allow for conversion of the parking structure into an office include:

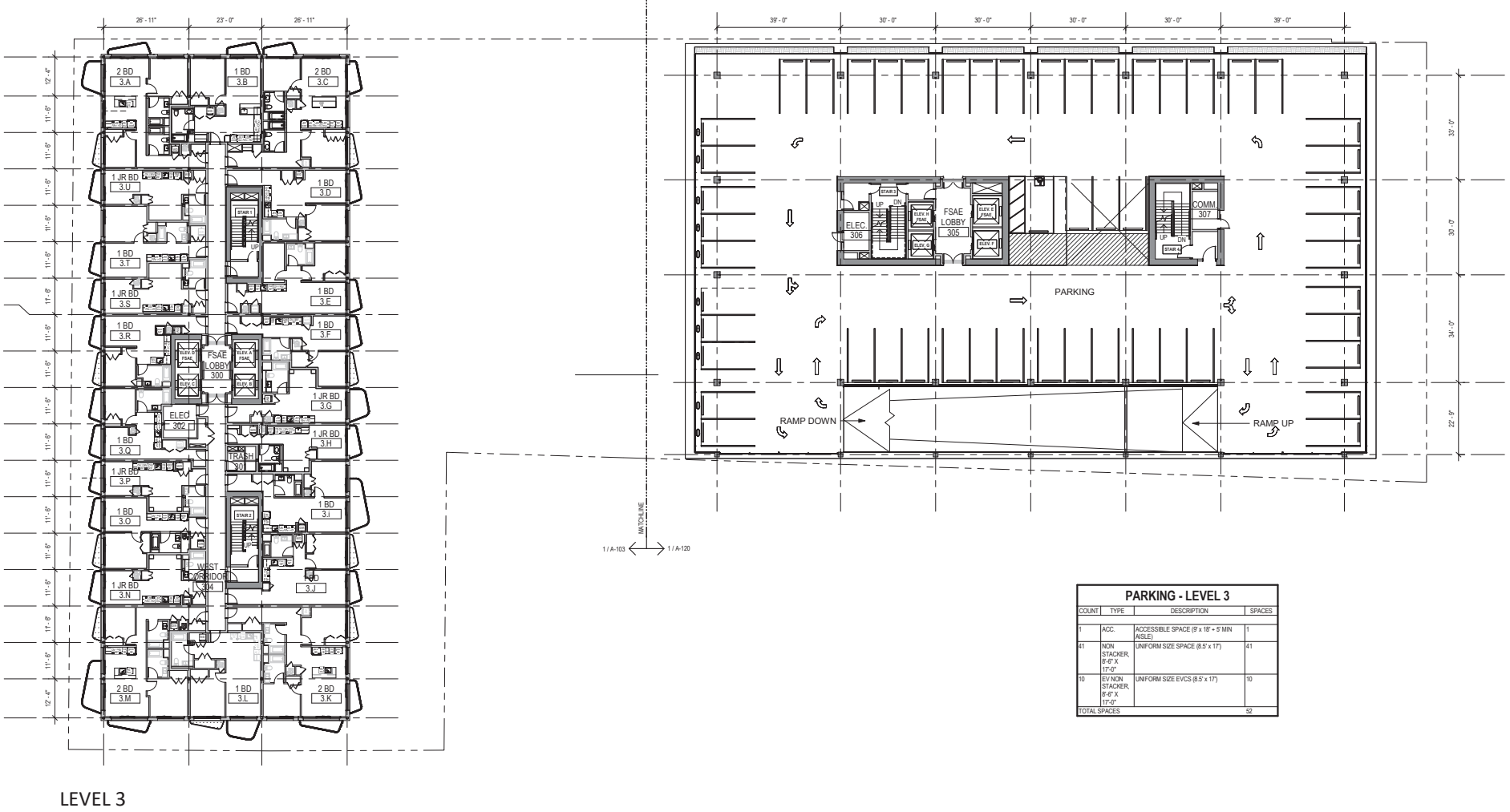
- Electrical and plumbing utilities (water supply, sewer, etc.) would be sized to handle future office build out.
- A future rooftop design would be planned for the change in heating and cooling mechanical equipment and space would be reserved for that future office mechanical equipment demands. Both space on the roof and space in the basement would be available.
- The central plant condenser water piping would be sized to handle the load of a future full build out.
- The floor slabs would not be continuously sloped, as in some parking garages, making it suitable for conversion. The garage ramp would be removable.
- The building structure has been designed to support weights required for office use, which is higher than that required for parking, therefore avoiding upgrades in the case of a future conversion.



Source: Studio Gang, August 14, 2023.

SITE PLAN- BASEMENT & LEVEL 1

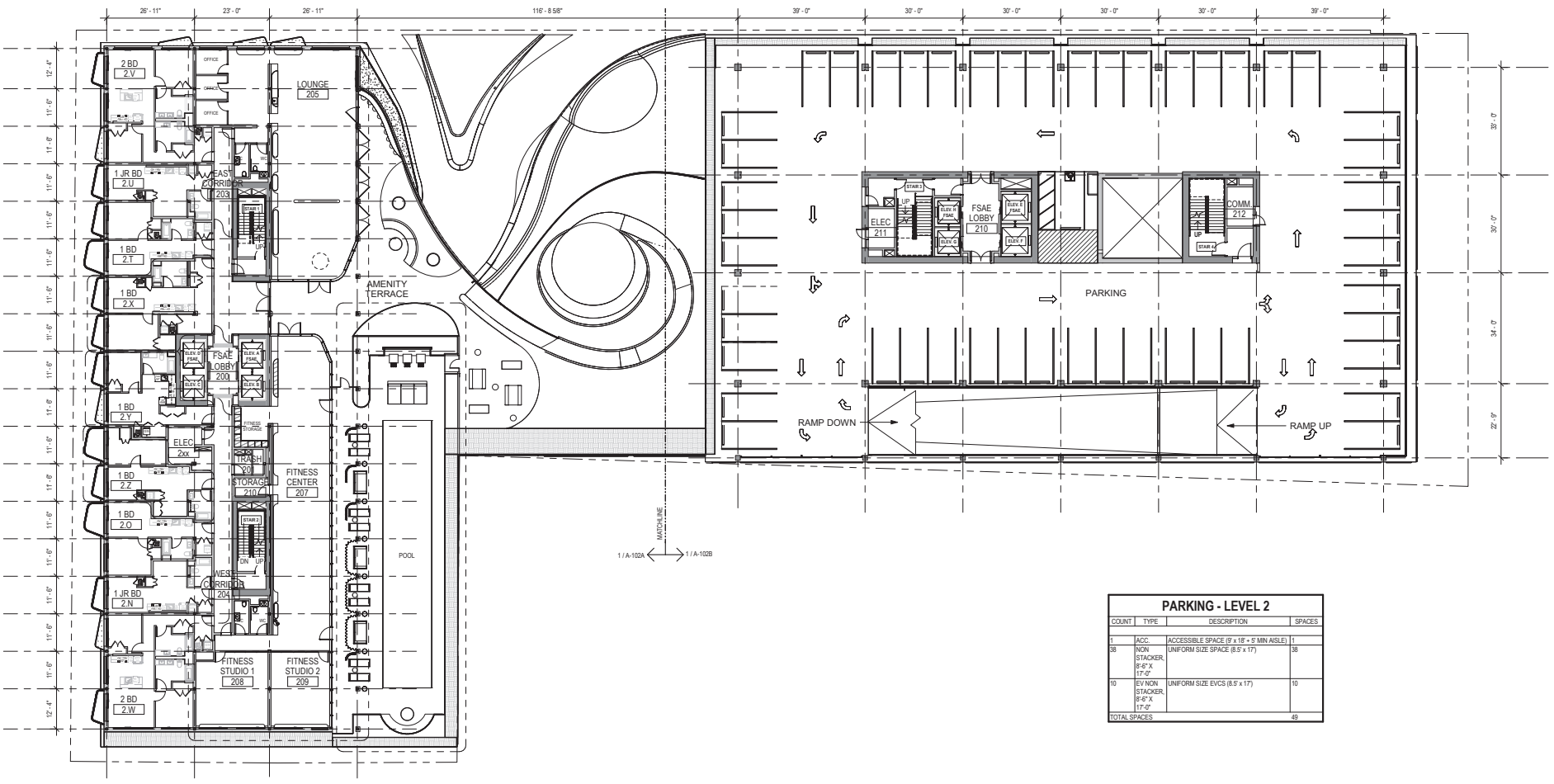
FIGURE 3.2-1



LEVEL 3

PARKING - LEVEL 3			
COUNT	TYPE	DESCRIPTION	SPACES
1	ACC.	ACCESSIBLE SPACE (9' x 18' + 5' MIN AISLE)	1
41	NON STACKER, 8'-6" X 17'-0"	UNIFORM SIZE SPACE (8.5' x 17')	41
10	EV NON STACKER, 8'-6" X 17'-0"	UNIFORM SIZE EVCS (8.5' x 17')	10
TOTAL SPACES			52

0 10 20 40 60 Feet



LEVEL 2

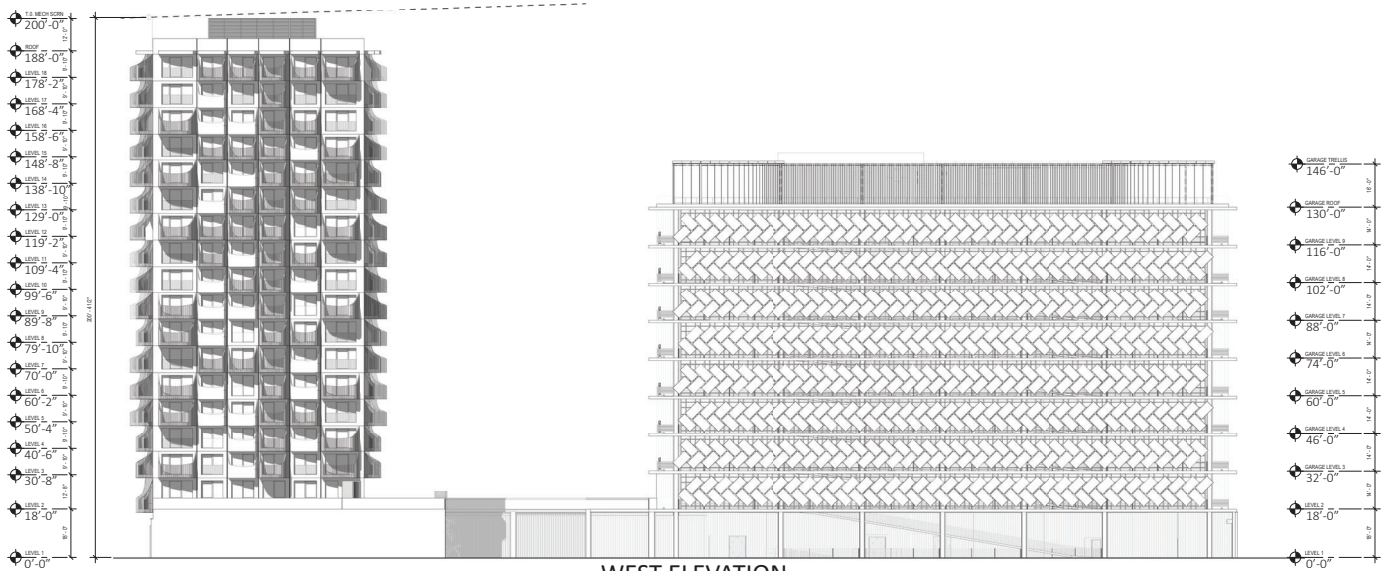
PARKING - LEVEL 2			
COUNT	TYPE	DESCRIPTION	SPACES
1	ACC.	ACCESSIBLE SPACE (9' x 18' + 5' MIN AISLE)	1
38	NON STACKER, 8'-6" X 17'-0"	UNIFORM SIZE SPACE (8.5' x 17')	38
10	EV NON STACKER, 8'-6" X 17'-0"	UNIFORM SIZE EVCS (8.5' x 17')	10
TOTAL SPACES			49

Source: Studio Gang, August 14, 2023.

SITE PLAN- LEVEL 2 & 3

FIGURE 3.2-2

EAST ELEVATION



WEST ELEVATION

Source: Studio Gang, August 14, 2023.

BUILDING ELEVATIONS

FIGURE 3.2-3

3.2.3 Construction

The project would excavate approximately 20 feet below grade for the underground parking and would remove approximately 97,040 cubic yards of soil. Construction of the first phase of the project (residential tower and parking tower) would take approximately 26 months. As proposed, construction would take place Monday through Saturday 7:00 am to 7:00 pm, which is outside the City's standard construction hours of Monday through Friday, 7:00 am to 7:00 pm. Therefore, the applicant is requesting extended construction hours be included as part of the Site Development Permit.

Construction activities associated with the proposed project include utility connections, building construction, frontage improvements (e.g., new street trees, new curb, gutter, sidewalk, and driveway construction), and landscaping on the site.

Future conversion of the parking tower to an office building would require an additional 15 months of construction. This second phase of the project is assumed to begin approximately 10 years after construction of the original project. Construction of the second phase is assumed to occur during the City's standard construction hours from 7:00 am to 5:00 pm six days a week.

3.2.4 Green Building Measures

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve, at a minimum, CAL Green Code requirements. This would be met by incorporating a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections. The project is required to comply with City of San José Reach Code and would also implement sustainability measures equivalent to Leadership in Energy and Environmental Design (LEED) Silver. The proposed project would enroll in San José Clean Energy (SJCE) TotalGreen to procure 100 percent renewable energy sources on-site beyond what EV panels would provide.

Stormwater would be retained and filtered on site in four media filter catch basins located throughout the project site on the northwest corner, southeast corner, and along Terraine Street. The project also proposes pervious pavement drainage areas on the driveway on the south edge of the project site.

The proposed project also includes an on-site wastewater recycling facility to provide treatment for wastewater produced by the proposed project. It is estimated that approximately 30,000 gallons per day would be treated on the project site and returned to the proposed project as recycled water for non-potable uses. This facility would be located at the center of the site on the first floor of the building near the entrance to the subterranean portion of the parking area.

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

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).

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 vehicle miles traveled (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 or mixed-use residential project, or employment center project and
- The project is located on an infill site within a transit priority area.[1]

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.[2]

[1] 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 or applicable regional transportation plan." 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: California Legislative Information. "Chapter 2.7. Modernization of Transportation Analysis for Transit-Oriented Infill Projects [21099- 21099.]." Accessed December 15, 2023. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&part=&chapter=2.7.&article=.

[2] California Department of Transportation. "Scenic Highways." Accessed December 15, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

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 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

City of 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 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 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 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.

Envision San José 2040 General Plan

The 2040 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

Policy	Description
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-1.2	Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
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.

CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate though sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.
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.
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.
CD-10.2	Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José.
CD-10.3	Require that development visible from freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) is designed to preserve and enhance attractive natural and man-made vistas.
VN-2.3	Ensure that community members have the opportunity to provide input on the design of public and private development within their community.

4.1.1.2 *Existing Conditions*

Existing on-site Aesthetics

The project site is located in the fully urbanized area of Downtown San José. The site is vacant and only contains a concrete pad on the northwest corner and limited vegetation. These features can be seen in Photos 1-4 below.

Surrounding Area

North of the project site is a six-story residential building with a flat roof and concrete and white panel exterior. On the west side of the site is a 30-foot tall berm and overpass of the SR-87 freeway. To the south of the project site is a parking lot and a six-story office building. To the east there is a mix of three- and five-story residential buildings with panel style façades. The surrounding land uses are shown in Photos 5-9.

Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the Downtown skyline are scenic features in the San José area. The project site and surrounding area are relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic

Photo 1: View of Project Site looking Northwest

Photo 2: View of Project Site looking South

PHOTOS 1 & 2

Photo 3: View of Project Site looking Southwest

Photo 4: View of Project Site looking West

PHOTOS 3 & 4

Photo 5: View of Terraine Street looking North

Photo 6: View of corner of Bassett Street and Terraine Street looking Northeast

Photo 7: View of parking lot South of Project Site looking South

Photo 8: View of Terraine Street looking South

Photo 9: View of residential uses East of the Project Site looking East

views of 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. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building 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, 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?[3] 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?	☐	☐	☐	☒	☐

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings is the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the Downtown Strategy 2040 FEIR. Similar to 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.

[3] Public views are those that are experienced from publicly accessible vantage points.

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

The proposed project would involve the construction of a 17-story mixed-use building and a 9-story parking garage on a podium with ground-floor retail on a currently vacant lot. Views of the hillside areas and the Downtown skyline are key scenic features in the City, however, most of the City is flat so these views are largely obstructed by the built environment. The project site is located within a highly urbanized area with no designated scenic resources or vistas. While construction of the proposed project with a maximum height of up to 200 feet would be visible in the immediate area, the proposed project would be consistent with other development in the area and would not diminish scenic views or damage any scenic resources in the project area. Therefore, implementation of the project would not result in a significant impact on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is not located along a state-designated scenic highway. The nearest state-designated highway is SR 9, located more than eight miles southwest of the project site. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

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?

The project site is located within an urbanized area that consists of residential and commercial land uses. Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would have to comply with Title 20 of the City's Municipal Code. Additionally, the proposed project would need to comply with the Downtown Design Standards for "Image Defining Frontages". These include the following:

- 4.2.1 - Form, Proportion, and Organizing Idea
- 4.3.2 - Skyline Level Massing (Above 70')
- 4.4.1 - Facade Pattern and Articulation
- 4.4.3 - Materials and Colors
- 4.4.6 - Parking Garages

The project would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would construct a 17-story mixed-use structure and a nine-story parking tower which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights, security lights, and external building lights. The parking structure would feature exterior detailing which would block headlights from vehicles using the parking structure.

The project would be subject to Section 20.75.360 of the City's Municipal Code which requires lighting to be directed away from any residential uses so that there will be no glare. The proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Compliance with all applicable regulations would protect the night sky and control the amount of light shining on streets, sidewalks, and residential properties. Additionally, the proposed project would be constructed with materials which would reduce potential glare issues to the maximum extent possible. The residential building's façade is glass reinforced concrete[4] with glazed openings. A secondary material of the facade is the metal for the balcony guardrails. These balconies cast the building in an array of shadows. They provide sunshade for the units and limit glare from the glazed openings. To prevent glare from the parking structure, the parking garage would have planters with vine wires along Terraine Street, absorbing light and providing a vegetated façade. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **[Same Impact as Approved Project (Less than Significant Impact)]**

[4] Concrete with fibers mixed in for strength.

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 identified as 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.[5]

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.[6]

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.[7] 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.[8]

[5] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed June 15, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[6] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[7] 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)).
[8] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed May 9, 2023. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

Based on the Santa Clara County Important Farmland Finder map[9], the project site does not contain agricultural resources nor does it contain forest areas or land under Williamson Act contracts and is designated Urban and Built-Up Land.

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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

Similar to 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?

[9] California Department of Conservation. Important Farmland Finder. Accessed May 2, 2023. https://maps.conservation.ca.gov/DLRP/CIFF/.

There are no agricultural resources located on-site including, 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. The project would have no impact on agricultural resources. **[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 not subject to a Williamson Act contract. The site is located within the Downtown Primary Commercial zoning district and would not conflict with any agricultural zoning. **[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 zoned for Downtown Primary Commercial and is identified as Urban and Built-Up Land on the California Department of Conservation database of agriculturally related data. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not impact these resources by conflicting with existing zoning for forest land, timberland, or timberland zoned Timberland Production. **[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 vacant and does not contain forested areas. Additionally, the project site is not zoned for forestry related land uses. Therefore, the project would not result in the conversion of forest land to non-forest uses. **[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?

The project site is vacant and does not contain agriculture or forest areas. Additionally, the project site is not zoned for land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural or forest land to non-agricultural or non-forest uses. **[Same Impact as Approved Project (No Impact)]**

4.3 Air Quality

The information in this section is based in part on the Air Quality Assessment completed for the project on November 10, 2023 by Illingworth and Rodkin, Inc. This report is included in Appendix A of the Addendum for reference.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Criteria air pollutants are pollutants that have established federal or state standards for outdoor concentrations to protect public health. Pursuant with the federal and state Clean Air Act, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforce the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), respectively. The NAAQS and CAAQS address the following criteria air pollutants: ozone (O_3), nitrogen dioxide (NO_2), carbon monoxide (CO), particulate matter with a diameter of 10 microns or less (PM_{10}), particulate matter with a diameter of 2.5 micros or less ($PM_{2.5}$), sulfur dioxide (SO_2), and lead. The CAAQS also includes visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride.

Toxic Air Contaminants

Toxic air contaminants (TACs) include airborne chemicals that are known to have short- and long-term adverse health effects. 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). Unlike criteria air pollutants, which have a regional impact, TACs are highly localized and regulated at the individual emissions source level.

DPM is the predominant TAC in urban air and 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).[10] Chemicals in diesel exhaust, such as benzene and formaldehyde, are also TACs identified by the CARB.

An overview of the sources of criteria pollutants and TACs, as well as their associated health effects, is provided in Table 4.3-1.

[10] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed June 22, 2023. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

Table 4.3-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants

Pollutants	Description and Sources	Primary Effects
Ozone (O_3)	O_3 is a secondary criteria air pollutant that is the result of a photochemical (sunlight) reaction between reactive organic gases (ROG) and nitrogen oxides (NO_x). Pollutants emitted by motor vehicles, power plants, industrial boilers, refineries, and chemical plants are the common source for this reaction. High O_3 levels are caused by the cumulative emissions of ROG and NO_X. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Commons sources of ROG and NO_x are vehicles, industrial plants, and consumer products	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	NO_2 is a reactive gas that combines with nitric oxide (NO) to form NO_x. NO_2 the byproduct of fuel combustion with common sources of NO_2 being emissions from cars, trucks, buses, power plants, and off-road equipment. Sources of NO_2 include motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Carbon Monoxide (CO)	CO is a colorless, odorless, and toxic gas that is the produce of incomplete combustion of carbon-containing substances (e.g., when something is burned). Common outdoor sources of CO include mobile vehicles (passenger cars and trucks) and machinery that burn fossil fuels.	• Interferes with oxygen delivery to the body's organ due to binding with the hemoglobin in the blood • Fatigue, headaches, confusion, and dizziness
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Particulate Matter is any material that is emitted as liquid or solid particles or a gaseous material, such as dust, soot, aerosols, and fumes. PM_{10} and $PM_{2.5}$ are both small enough particulates to be inhaled into the human lungs, and $PM_{2.5}$ is small enough to deposit into the lungs, which poses an increased health risk compared to PM_{10}. Typical sources of particular matter include stationary combustion of solid fuels, construction activities, vehicles, industrial processes, and atmospheric chemical reactions.	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Sulfur Dioxide (SO_2)	SO_2 is a pungent and colorless gaseous pollutant the is part of the sulfur oxides (SO_x) group and is the pollutant of greatest concern in the SO_x group. SO_x can react with other compounds in the atmosphere to form small particles. These particles contribute to particulate matter pollution. SO_2 is primarily formed from fossil fuel combustion at power plants and other industrial facilities. Sources of SO_2 include motor vehicles, locomotives, ships, and off-road diesel equipment that are operated with fuels that contain high levels of sulfur. Industrial processes, such as natural gas and petroleum extraction, oil refining, and metal processing.	• Aggravation of respiratory illness • Respiratory irritation such as wheezing, shortness of breath and chest tightness • Increased incidence of pulmonary symptoms and disease, decreased pulmonary function

Pollutants	Description and Sources	Primary Effects
Lead	Lead is a naturally occurring element that can be found in all parts of the environment including the air, soil, and water. As an air pollutant, lead is present in small particles. The most common historic source of lead exposure was the past use of leaded gasoline in motor vehicles. The exhaust resulting from use of leaded gasoline would release lead emissions into the air. Now, major sources of lead in the air are from ore and metals processing plants and piston-engine aircraft operating on leaded aviation fuel. Other sources are waste incinerators, utilities, and lead-acid battery manufacturers. The highest air concentrations of lead are usually found near lead smelters.	• Adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system
Toxic Air Contaminants (TACs)	TACs include certain air pollutants known to increase the risk of cancer and/or other serious health effects that range from eye irritation, respiratory issues, and neurological damage. Sources of TAC include, but are not limited to, 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

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, 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.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the 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): PM, O_3, CO, SO_2, NO_2, and lead.[11]

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.

[11] NO_x is the group of nitrogen compounds (NO_2 and NO) that typically represents NO_2 emissions because NO_2 emissions contribute the majority of NO_x exhaust emissions emitted from fuel combustion.

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.

Diesel 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, this 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

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 federal and state air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan. The 2017 Clean Air Plan focuses on the following two related BAAQMD goals and how to achieve them:

- Protect air quality and health at the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from TAC; and
- Protect the climate by reducing Bay Area GHG emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[12]

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.

[12] Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017. Page 12.

Community Air Risk Evaluation Program

Under the Community Air Risk Evaluation (CARE) program, BAAQMD has identified areas with high TAC emissions, and sensitive populations that could be affected by them and uses this information to establish policies and programs to reduce TAC emissions and exposures. Impacted communities identified to date are located in Concord, Richmond/San Pablo, San José, eastern San Francisco, western Alameda County, Vallejo, San Rafael, and Pittsburg/Antioch. The main objectives of the program are to:

- Evaluate health risks associated with exposure to TACs from stationary and mobile sources;
- Assess potential exposures to sensitive receptors and identify impacted communities;
- Prioritize TAC reduction measures for significant sources in impacted communities; and
- Develop and implement mitigation measures to improve air quality in impacted communities.

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 air quality and are applicable to the project and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel through parking supply and pricing management; and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality

Policy	Description
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-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
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

Policy	Description
	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-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
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-12.1	For new, expanded, or modified facilities that are potential sources of objectionable odors (such as landfills, green waste and resource recovery facilities, wastewater treatment facilities, asphalt batch plants, and food processors), the City requires an analysis of possible odor impacts and the provision of odor minimization and control measures as mitigation.
MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

4.3.1.3 *Existing Conditions*

The San Francisco Bay Area (Bay Area) Air Basin is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the state O_3, PM_{10}, and $PM_{2.5}$ standards.[13,14] The area has attained both NAAQS and CAAQS for CO, SO_2, and NO_2. As the regional air district, BAAQMD is responsible for attaining the NAAQS and CAAQS for these pollutants. As part of an effort to attain and maintain ambient air quality standards for O_3, PM_{10}, and $PM_{2.5}$, BAAQMD has established thresholds of significance for these air pollutants and their precursors that apply to both construction period and operational period impacts. 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 where temperatures are higher, there is less wind circulation, and sources of the precursor pollutants (ROG and NO_x) are prominent. In the Bay Area, most particulate matter is generated from the following activities: combustion, factories, construction, grading, demolition, agriculture, and motor vehicles. Motor vehicles are currently responsible for about half of particulates in the Bay Area. Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

[13] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed June 20, 2023.

[14] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of SO2 or lead. These criteria pollutants are not discussed further.

The sensitive receptors nearest to the project site were determined to be located at a multi-family building approximately 100 feet southeast of the project 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?	☐	☒	☐	☐	☐

Similar to 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?

2017 Clean Air Plan Consistency

The proposed project would not conflict with the 2017 CAP because it is consistent with the General Plan, the San José Downtown Strategy 2040 Plan, is considered urban infill, and would be located near employment centers and regional transit. The Downtown Strategy 2040 was found to facilitate sustainable development by concentrating growth in a dense urban area with access to transit facilities and would generally be consistent with Clean Air Plan measures intended to reduce automobile and energy use. Based on the construction and operational emissions calculated for the proposed project (see Tables 4.3-2, 4.3-3, 4.3-4, and 4.3-5 below) the project would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 4.3-1. Therefore, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not

inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. The project would comply with the 2017 Clean Air Plan.

Construction Criteria Pollutants

Phase 1 – Residential Tower and Parking Tower

Construction emissions were modeled for the primary construction phase of the project and the future office conversion. The California Emissions Estimator Model (CalEEMod) Version 2022 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. Standard construction equipment was assumed, and specific construction activities were based on data provided by the project applicant. The model used the inputs of 346 units of High-Rise Apartments, 13,445 square feet of strip mall retail[15], and 265,607 square feet of parking area in a connected nine-story tower.

The construction schedule assumes that the earliest possible start date for the proposed project would be May 2024 and the project would be built out over a period of approximately 26 months (696 construction workdays), with the earliest year of operation assumed to be 2027. Construction was assumed to occur Monday through Saturday between 7:00 am to 7:00 pm for the initial construction during the years 2024 through 2026. Based on the construction information provided for the proposed project, the project's criteria pollutant emissions were estimated. The results are provided in Table 4.3-2 for the first phase of the project.

Table 4.3-2 Construction Period Emissions – Phase 1 Construction

Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2024 (tons/year	0.22	1.94	0.04	0.03
2025 (tons/year)	1.97	2.98	0.03	0.03
2026 (tons/year)	0.99	0.74	0.02	0.02
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2024 (210 days) (lbs./day)	2.14	18.47	0.37	0.32
2025 (313 days) (lbs./day)	12.62	19.03	0.22	0.20
2026 (173 days) (lbs./day)	11.50	8.52	0.20	0.19
BAAQMD Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No
Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023				

[15] The air quality construction modeling was based on a previous version of the project which included the proposal of 346 units and 13,445 square feet of retail space. While the current project description includes 345 units and 11,777 square feet of retail, the conclusions of the air quality report are still valid because a larger project was previously analyzed, resulting in a more conservative analysis.

Phase 2 – Conversion of Parking Tower to Office Tower

Construction emissions were modeled for the primary construction phase of the project and the future office conversion. The California Emissions Estimator Model (CalEEMod) Version 2022 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The office conversion would replace nine floors of the parking structure with 210,328 square feet of office space and reduce parking by approximately 325 spaces.

The earliest possible start date for the proposed office conversion phase of the project would be between 2032 and 2036 (estimated as May 2034) and this construction would occur over a period of approximately 15 months or 394 construction workdays. The earliest year of operation of the converted office is assumed to be 2036. Construction of the second phase of the project is assumed to be Monday through Friday from 7:00 am to 5:00 pm in 2034 and 2035. The results are provided in Table 4.3-3 for the office conversion.

Table 4.3-3 Construction Period Emissions – Phase 2 Construction

Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2034 (tons/year	0.25	1.58	0.02	0.01
2035 (tons/year)	1.49	0.82	0.01	0.01
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2034 (211 days) (lbs./day)	2.39	14.99	0.15	0.13
2035 (183 days) (lbs./day)	16.24	9.01	0.08	0.07
BAAQMD Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No

Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023
The values in the Air Quality report were based on a worst-case scenario conversion of the office tower which assumed 296,064 square feet of office space. The impacts of the actual project would be lower than the values displayed here.

Based on the criteria pollutant estimates for both construction periods, the proposed project would not exceed the BAAQMD CEQA thresholds and would result in a less than significant construction air quality impact.

Operational Criteria Pollutants

The impact of operational emissions was addressed in the Downtown Strategy 2040 FEIR and found to be significant and unavoidable. Operational air emissions from the project would be generated primarily from vehicles driven by future residents, employees, and vendors. The proposed project was analyzed using the inputs described above in the construction criteria pollutant section and the CalEEMod 2022 modeling software. Table 4.3-4 below shows the operational criteria air pollutant emissions for the 2027 and 2036 build years of the proposed project.

Table 4.3-4 Operational Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Phase 1 Annual Emissions (tons/year)	3.00	1.34	1.32	0.36
Phase 2 Annual Emissions (tons/year)	5.23	1.85	3.17	0.83
BAAQMD Thresholds	**10 tons/year**	**10 tons/year**	**15 tons/year**	**10 tons/year**
Exceed Threshold	No	No	No	No
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Phase 1 Daily Emissions (lbs./day)	16.44	7.32	7.21	1.97
Phase 2 Daily Emissions(lbs./day)	28.64	10.14	17.34	4.57
BAAQMD Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No

Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023

Additionally, there would be a period of time where the first phase of the proposed project would be operational and the second phase of construction to convert the parking structure to office would overlap. The combination of operational and construction emissions was estimated for this period by adding the 2027 annual operational emissions from Table 4.3-4 above to the highest office conversion construction emissions in Table 4.3-2 above. The combined emissions during this phase are summarized in Table 4.3-5 below.

Table 4.3-5 Maximum Year Combined Phase 1 Operations and Phase 2 Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2034/2035 Annual Emissions (tons/year)	4.49	2.92	1.34	0.38
BAAQMD Thresholds	**10 tons/year**	**10 tons/year**	**15 tons/year**	**10 tons/year**
Exceed Threshold	No	No	No	No
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2034/2035 Daily Emissions (lbs./day)	32.68	22.31	7.36	2.10
BAAQMD Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No

Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023
The values in the Air Quality report were based on a worst-case scenario conversion of the office tower which assumed 296,064 square feet of office space. The impacts of the actual project would be lower than the values displayed here.

Based on the annual and daily operational emissions from the initial construction, office conversion and overlapping office conversion and initial operational emissions; the proposed project would not exceed the BAAQMD significance thresholds. The project is part of the planned growth in the Downtown area and would contribute to the significant cumulative operational emissions impact

from full build out of the Downtown Strategy 2040, which was determined to be a significant and unavoidable. The project by itself would not, however, result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. Therefore, the proposed project would have a less than significant operational criteria pollutant impact.

The project would comply with the 2017 Clean Air Plan and would not exceed emissions thresholds for construction or operational criteria pollutants. Therefore, the project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. **[Less Impact than Approved Project (Significant and Unavoidable Impact)]**

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 Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As discussed in a), operational criteria pollutant emissions associated with the proposed project would not result in emissions above established BAAQMD thresholds. The project is part of the planned growth in the Downtown area and would contribute to the significant cumulative operational emissions impact from full build out of the Downtown Strategy 2040, which was determined to be significant and unavoidable. The proposed project, by itself, would not, however, result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. The project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

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

Dust Generation

Construction activities would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying loads of soils or debris. Consistent with the Downtown Strategy 2040 and General Plan Policy MS-13.1, the following Standard Permit Conditions for controlling dust would be implemented during all phases of construction to reduce dust and other particulate matter.

Standard Permit Conditions

The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site, consistent with General Plan Policy MS-13.1:

- Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
- Cover all haul trucks transporting soil, sand, or other loose material off-site.
- Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
- Limit all vehicle speeds on unpaved roads to 15 mph.
- Pave all new roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
- Wash off all trucks and equipment, including their tires, prior to leaving the site.
- Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- Maintain and properly tune all construction equipment in accordance with the 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 name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

Implementation of the measures listed above would reduce the air quality dust and particulate impacts associated with grading and construction to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

Community Risk Impacts

Construction activity and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC and could pose a health risk to nearby sensitive receptors. A health risk assessment was

prepared to address project construction impacts on the surrounding off-site sensitive receptors within 1,000 feet of the project site.

Community Risk from Project Construction

The primary community risk impact associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. The maximum modeled annual DPM and $PM_{2.5}$ concentrations were identified at nearby sensitive receptors (as shown in Figure 4.3-1) to find the maximum exposed individuals (MEIs).

The MEIs for the proposed project were determined to be located at a multi-family building approximately 80 feet southeast of the project site. The results of the modeling at this MEI are summarized below in Table 4.3-6.

Table 4.3-6 Maximum Construction and Operation Risk Impacts at the Off-Site Receptors

Year	Cancer Risk (per million)	$PM_{2.5}$ Exhaust	Hazard Index
Project Construction (Years 0-3 & 10-12)	**22.05 (infant)**	0.14	0.01
Project Emergency Generator (Years 3-30)	1.72	0.01	<0.01
Total/Maximum Project Impact (Years 0-30)	**23.77 (infant)**	0.14	0.01
BAAQMD Thresholds	**10**	**0.3**	**1.0**
Exceed Threshold	**Yes**	No	No

Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023

The proposed project would result in an increased cancer risk of 23.77 cases per million which would exceed the BAAQMD threshold of 10 cases per million. Therefore, the proposed project would result in a significant impact resulting from exposure of sensitive receptors to substantial pollutant concentrations.

Impact AIR-1 The proposed project would result in a combined construction cancer risk of 23.77 cases per million for both construction phases and overlapping operation of on-site emergency generators, which exceeds the BAAQMD cancer risk threshold of 10 cases per million.

Mitigation Measures

The project applicant would be required to implement a feasible plan to reduce DPM by approximately 65 percent to reduce cancer risk and annual $PM_{2.5}$ concentrations from construction.

MM AIR-1.1 Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used

during construction. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 Final emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise:

- If use of Tier 4 Final equipment is not available, the contractor will alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 65 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
- Install electric power lines during early construction phases in order to electrify generators, concrete/industrial saws, and pressure washers during the initial construction period from 2024 through 2026.

With implementation of MM AIR-1 and the Standard Permit Conditions during both phases of construction, the proposed project's construction cancer risk levels (assuming infant exposure) would be reduced by 70 percent to 8.34 per million. Therefore, the proposed project would result in a less than significant health risk impact with mitigation incorporated. **[New Less than Significant Impact with Mitigation (Less than Significant Impact)]**

Community Risk from Project Operation

Operation of the proposed project would result in long term emissions from traffic trips and stationary sources such as diesel generators. Diesel powered vehicles are the primary sources of local traffic-generated TAC impacts.

Phase 1 – Residential Tower and Parking Tower

The proposed residential phase of the project would generate approximately 1,659 net daily trips A majority of the trips generated by the proposed project would be light duty passenger vehicles, which do not contribute a large amount of TACs or PM to the surrounding area. Additionally, the BAAQMD guidelines consider a road with less than 10,000 vehicles a low impact TAC source. Since the proposed project would not contribute more than 10,000 vehicles to nearby roadways the increase in traffic would not result in a great enough TAC emission to result in impacts on existing residents. Therefore, the mobile sources of the project are considered negligible for the TAC analysis of the first phase of the project.

The first phase of the project would include one emergency generator. The generator would be 1,000 kilowatts (kW) powered by a 1,350 horsepower diesel-fired engine. The generator would be located on the basement floor in the northwest corner of the residential building. The diesel generator would be a source of TAC emissions during testing periods (less than one-hour of operation per test). As part of the BAAQMD permit requirements for toxics screening analysis, the engine emissions will have to meet Best Available Control Technology for Toxics (BACT) and pass the toxic risk screening level of less than ten in a million. Therefore, the generator would not result in a significant air quality health risk impact because the generator would be required to comply with all applicable BAAQMD regulations.

Phase 2 – Conversion of Parking Tower to Office Tower

The future office conversion would generate an additional 2,441 net daily trips. Phase 1 and Phase 2 combined would generate 3,988 net daily trips. As stated above, a majority of the trips generated by the proposed project would be light duty passenger vehicles, which would not contribute a large amount of TACs or PM to the surrounding area. Since the proposed project would not contribute more than 10,000 vehicles to nearby roadways the increase in traffic would not result in a great enough TAC emission to result in impacts on existing residents. Therefore, the mobile sources of the project are considered negligible for the TAC analysis of the second phase of the project.

Because the operational mobile and stationary sources would both result in minimal TAC emissions, the proposed project would result in a less than significant impact from exposure of sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As proposed, some of the wastewater generated by the project would be treated at an independent wastewater treatment facility located in the podium level of the project. The wastewater treatment facility could generate odors from many phases of the treatment process. The anaerobic biological activity in the treatment system of the wastewater and solids produces most of the hydrogen sulfide and ammonia type odors.

Odors can be properly controlled through modern design, appropriate chemical treatment, proper ventilation, and facility maintenance. As proposed, the wastewater treatment facility would be a completely enclosed system within the podium level of the project. The new pre-manufactured wastewater equipment would be equipped with modern technology, such as air filters and airtight tank areas, to minimize the release of any odors and the proposed treatment plant does not include any lagoons, exposed treatment water, or biosolid piles that would emit odors. The wastewater treatment odors would also be regulated by BAAQMD in the event of odor complaints.

Residences are located within the same building as well as nearby buildings that are within approximately 100 feet of the project. Residences who are subjected to objectionable odors are

most likely to complain. The BAAQMD CEQA Air Quality Guidelines include screening distances for various odor sources. These screening distances identify two miles for wastewater treatment facilities. However, these are applied to traditional open municipal facilities that have exposed headworks, open-air ponds, and treat large volumes of wastewater. The screening distances would not apply to this small, modern, enclosed system. Nonetheless, odor issues could occur if there are upset conditions or improper handling of odor-producing solids or wastewater, improper operations, or poor maintenance. Adequately controlling odors requires all components of the facility to work properly.

Given the proximity of existing residences to the wastewater treatment facility on-site, the project could cause odors and result in odor complaints.

Impact AIR-2 The proposed project could result in odors leading to odor complaints due to the presence of the wastewater treatment facility on-site.

Mitigation Measures

Consistent with General Plan Policy MS 12.1 any future odor sources in the downtown area would require analysis of possible odor impacts and the provision of odor minimization and control measures as mitigation. The following measures are included to satisfy this requirement.

MM AIR-2.1 Prior to issuance of any building permits, the project applicant shall develop an odor control plan that addresses plant design issues to control odors, operating, and maintenance procedures to prevent odors, and an action plan to respond to upset conditions that could cause odors and measures to respond to odor complaints. The odor control plan shall describe the design elements and best management practices built into the facility that include:

- Ventilation of the system using carbon absorption, biofiltration, ammonia scrubbers, or other effective means to treat exhausted air from the enclosed facility;
- Odor proofing of refuse containers used to store and transport grit and screenings or biosolids; and
- Injection of chemicals to control hydrogen sulfide.

The plan shall describe procedures to address upset conditions caused by equipment failures, power outages, flow control, or treatment issues. The plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's Designee and the Bay Area Air Quality Management District (BAAQMD) prior to issuance of any building permits.

MM AIR-2.2 Prior to occupancy permits and during project operations, a publicly visible sign with the telephone number and project applicant designated person to contact regarding odor complaints shall be posted at the project site, in the

lobby. This person shall respond and take corrective action within 48 hours of a complaint. BAAQMD's phone number shall also be posted on the sign to ensure compliance with applicable regulations. A log of odor complaints and procedures implemented to respond to complaints shall be maintained in perpetuity and provided to the City upon request.

Through implementation of MM AIR-2.1 and MM AIR-2.2 and compliance with BAAQMD regulations, the proposed project would limit the discharge of odorous substances and respond to odor complaints with an odor control plan. Therefore, the proposed project would result in a less than significant impact with mitigation incorporated. **[New Less than Significant Impact with Mitigation Incorporated (Less than Significant Impact)]**

4.3.2.1 *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 air quality conditions affecting a proposed project.

City of San José General Plan Policy MS-11.1 requires new residential development projects to incorporate effective mitigation into their designs to avoid significant risks to health and safety. BAAQMD's recommended thresholds for health risks and hazards, shown in Table 4.3-1, were used to evaluate on-site exposure.

In addition to evaluating health impact from project construction, a health risk assessment was completed to assess the impact existing TAC sources would have on the new proposed sensitive receptors (residents) that that project would introduce. The same mobile and stationary TAC sources identified above were used in this health risk assessment, including nearby construction.

The sources of nearby TACs included in this analysis were SR 87, West Saint James Street and Market Street/Coleman Avenue, stationary generator sources, the Union Pacific Railroad line, and other nearby construction projects. The results of the health risk assessment are shown in Table 4.3-7 below.

Table 4.3-7 Impacts from Combined Sources to Project Site Receptors

Year	Cancer Risk (per million)	$PM_{2.5}$ Exhaust	Hazard Index
Mitigated Office Conversion Construction	2.54	0.01	<0.01
SR 87, ADT 101,760	9.57	0.28	<0.01
West Saint James Street, ADT 23,965	0.35	0.02	<0.01
Market Street/Coleman Avenue, ADT 21,228	0.26	0.02	<0.01
UPRR Railway, BAAQMD Raster	9.26	0.01	<0.01

Tuc's Auto Body & Paint (Facility ID #17784, Automotive Body, Paint, and Interior Repair and Maintenance), Project Site at 670 feet	<0.01	<0.01	<0.01
City Heights at Pellier Park (Facility # 17788, Generator), Project Site at 470 feet	0.74	<0.01	<0.01
San José Fire Dept FS #1 (Facility #21746, Generator), Project Site at 580 feet	0.01	<0.01	<0.01
The Sobrato Organization (Facility #24161, Generator), Project Site at 700 feet	0.06	<0.01	<0.01
The Sobrato Organization (Facility #24637, Generator), Project Site at 500 feet	0.13	<0.01	<0.01
BAAQMD Single Source Thresholds	**10**	**0.3**	**1.0**
Exceed Threshold	No	No	No
Cumulative Total (Mitigated)	22.93	<0.39	<0.10
BAAQMD Cumulative Source Threshold	**100**	**0.8**	**10.0**
Exceed Threshold	No	No	No

Source: Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023

Based on the TAC levels that future residents of the project site would be exposed to, the proposed project would not put new residents at risk from TACs existing in the project area, and the proposed project would be consistent with General Plan Policy MS-11.1

4.4 Biological Resources

The information in this section is based in part on the Arborist Report completed on November 15, 2022 and revised January 25, 2024 by HMH. This report is included in Appendix B of the Addendum for reference.

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. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. 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.

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 (Habitat Plan) 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 Habitat Plan 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.

City of 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.

Riparian Corridor and Bird-Safe Building Policy 6-34

The City of San José's Riparian Corridor and Bird Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious

surface within Riparian Corridor setbacks to minimize flooding from urban runoff and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-safe design guidance for buildings and structures includes avoidance of large areas of reflective glass, transparent building corners, up-lighting, and spotlights.

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

Policy	Description
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).
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.
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.
ER-6.3	Employ low-glaring lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
ER-6.7	Include barriers to animal movement within new development and, when possible, within existing development, to prevent movement of animals (e.g., pets and wildlife) between developed areas and natural habitat areas where such barriers will help to protect sensitive species.
ER-6.8	Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.
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

Policy	Description
	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.
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: • Avoid conflicts with nearby power lines. • Avoid potential conflicts between tree roots and developed areas. • Avoid use of invasive, non-native trees. • Remove existing invasive, non-native trees. • 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.
MS-21.9	Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree species native to the area and propagated from local sources (generally from within 5-10 miles and preferably from within the same watershed).
IN-1.11	Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.
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.

4.4.1.2 *Existing Conditions*

The project site is located in Downtown San José and has limited vegetation on-site. Most of the site consists of bare ground with weeds and grasses. The tree survey identified 10 street trees adjacent to the project site that are located on the sidewalk. None of these trees are ordinance sized. The street trees are listed in Table 4.4-1 below and their locations are shown in Figure 4.4-1.

Table 4.4-1 Street Tree Classifications

Tree Number	Tree Species	Diameter in Inches at Breast Height
1	Maidenhair Tree	3.4
2	Maidenhair Tree	2.3

3	Maidenhair Tree	2.8
4	Maidenhair Tree	2.3
5	Maidenhair Tree	3.2
6	Maidenhair Tree	1.1
9	Maidenhair Tree	2.4
10	Maidenhair Tree	0.8
11	Maidenhair Tree	0.9
12	Maidenhair Tree	0.8
Source: HMH. Arborist Report. November 15, 2022.		

The vegetation on-site does not represent usable habitat for non-urban species and is defined as urban land in the habitat management plan.

LOCATION OF ON-SITE TREES | FIGURE 4.4-1

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?	☐	☐	☐	☒	☐

Similar to 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?

The environment surrounding the project site consists of the fully developed Downtown area which does not provide habitats suitable for species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. The proposed project would remove the trees on-site which may provide nesting and/or foraging habitat for migratory birds, including raptors.

There are currently 10 street trees around the project site. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Construction activities on the project site could result in the loss of eggs or nests. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1 The proposed project would result in loss of eggs, nests, or nest abandonment if construction activities occur during nesting seasons.

Mitigation Measures:

MM BIO-1.1 **Nesting Raptors and Migratory Birds:** Consistent with the required Downtown Strategy 2040 FEIR the project will be required to implement the following measures:

- 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 1st through August 31st, inclusive.
- If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor 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 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will 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 will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250

feet) to be established around the nest. The buffer would ensure that raptor or migratory bird nests will 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 Planning, prior to the issuance of any grading or building permit.

With implementation of the mitigation measure above, the project's impact on nesting birds and raptors would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation)]**

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?

There are no riparian habitats or other sensitive natural communities in the immediate project area. The only sensitive natural communities in the vicinity of the Downtown area are the Los Gatos Creek and the Guadalupe River corridors, the latter of which is located approximately 900 feet west of the project site.[16] The proposed project would develop the vacant lot with a two-tower, 17-story mixed-use building and would not adversely affect any riparian habitat or sensitive natural community. **[Same Impact as Approved Project (Less than Significant 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 25 percent impervious and does not contain state or federally protected wetland areas. The project would not impact areas outside of the immediate project site. Therefore, the project would not impact state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **[Same Impact as Approved Project (Less than Significant 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 in a developed area of Downtown where no natural habitat exists on-site that would support endangered, threatened, or special status wildlife species. The project site is not used as a wildlife corridor by any native resident or migratory fish or wildlife species. Therefore, implementation of the proposed project would not interfere with the movement of any fish or wildlife species. **[Same Impact as Approved Project (Less than Significant Impact)]**

[16] City of San José. San José Downtown Strategy 2040 Final Environmental Impact Report. December 2018.

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

Trees in the area provide biological value in the form of nesting, cover, and foraging habitat for a variety of birds, mammals, and insects. The proposed project would result in the removal of one non-ordinance sized street tree adjacent to the project site. Consistent with the Downtown Strategy 2040 FEIR, any tree removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In addition, the project would be required to implement the following Standard Permit Conditions.

Standard Permit Conditions:

The project will be required to implement the following measures:

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

Table 4.4-2: 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

Notes:

[1] As measured 4.5 feet above ground level

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

[3] Ordinance-sized tree

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

The species and exact number of replacement trees to be planted on a given project site would be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. The planting and maintenance of replacement and street trees will be made conditions of development approval.

- **In-Lieu Mitigation.** In the event the project site does not have sufficient area to accommodate the required tree mitigation, implement one or more of the following measures, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
    - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.

With implementation of the identified Standard Permit Conditions, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **[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?

The project site is located within the SCVHP[17] and is designated as "Urban-Suburban" land. Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development;[18]
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
- The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" or,
- The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian,

[17] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed June 2, 2023. http://www.hcpmaps.com/habitat/.

[18] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition

- The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.5 Cultural Resources

The information in this section is based in part on the Cultural Resource Assessment completed on November 7, 2023 by Chronicle Heritage. A copy of the Archeological Sensitivity Assessment, which is a confidential report, is on file at the City of San José Department of Planning and is available upon request with appropriate credentials.

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.[19]

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.

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

[19] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 31, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

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.

City of San José

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.

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

Policy	Description
LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
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.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
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.
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-13.13	Foster the rehabilitation of buildings, structures, areas, places, and districts of historic significance. Utilize incentives permitting flexibility as to the uses; transfer of development rights; tax relief for designated landmarks and districts; easements; alternative building code provisions for the reuse of historic structures; and financial incentives.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
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.
LU-14.3	Design new development, alterations, and rehabilitation/remodels in conservation areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining

Policy	Description
	characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structures, complete non-Historic American Building Survey level of documentation, list qualifying structures on the Historic Resources Inventory, and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas
IP-10.3	In addition to a Site Development permit, require an Historic Preservation permit for modifications to a designated Historic Landmark structure. This permit process fosters the implementation of the Historic Preservation goals and policies of this 2040 General Plan.
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.

4.5.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located approximately 0.17 miles east of the Guadalupe River which has been identified as an area of archeological sensitivity.

A literature review completed for the proposed project identified the area to be moderately sensitive for Native American resources, but there is no recorded site within or adjacent to the project site.

Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

The pueblo was originally located northeast of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now Downtown San José. The current intersection of Santa Clara Street and Market Street in Downtown San José was the center of the second pueblo. The second pueblo site is located approximately 0.37 miles southeast of the project site.

Post-Mission Period to Mid-Twentieth Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

Chronicle Heritage reviewed historical maps and aerial imagery of the project site, as a part of the Cultural Resource Assessment, to identify the potential for historic (45 years and older) cultural resources on the project site. A map dated 1876 is the earliest depiction of the project site, and it demonstrates streets and tracts surrounding the Project area with no structures or landownership associated with the project site.

An 1884 Sanborn Fire Insurance map shows the project site with several structures including the First Ward Public School, a Fruit Packing Depot, and multiple unnamed structures and small sheds. The Southern Pacific Railroad can be seen along an east–west alignment north of Bassett Street outside the project site. The 1889, 1897, and 1899 San José, California, USGS topographic maps show expanded urban development surrounding the project site.

By 1915, a Sanborn Fire Insurance map shows Edison High School and Longfellow Public School within the project site at the northwestern corner of Terraine Street and Devine Street. Aerial photography from 1931 shows further urban development in the vicinity of the project site. This aerial photography shows that the southern half of the project site contains a large building, likely Edison High School and Longfellow Public School, and several small structures immediately west of the large building. Several large warehouses are shown in the northern portion of the project site, associated with the industrial economy related to the Southern Pacific Railroad located one block

north. By 1956, the small buildings west of the school were demolished, but no other significant changes occurred near the project site. The high school was demolished in 1980, and the southern portion of the project site became a vacant lot. At this time the industrial buildings on the north side of the site were still present.

In 1987, the construction of Route 87 can be seen, located immediately west of the project site. Within the project site, the larger industrial buildings previously located in the northern portion of the site were demolished. By 1993, the construction of Route 87 was completed, and no further alterations to the project site can be seen.

Based on this site history, and because the site has experience disturbance, the project site is determined have a low sensitivity for historic-era archaeological deposits potentially associated with the previous development on-site. However, at depth, the site has a potential to encounter undisturbed native sediments exists, resulting in a moderate sensitivity for buried prehistoric resources.

Historical Resources

The project site is vacant and does not contain historic structures and there are no structures older than 50 years located on surrounding parcels.

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, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties 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?

The project site does not contain any structures and there are no nearby historic resources that would be impacted by construction of the proposed project. Therefore, the proposed project would not result in new or more significant impacts to historic resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Due to the Project area's proximity to the Guadalupe River and known prehistoric resources within 0.25 miles of the project site, there exists a low to moderate potential to encounter prehistoric cultural resources during ground disturbing activities.

Impact CUL-1 The proposed project would result in excavation on the project site and would encounter cultural resources during construction activities.

Required Downtown Strategy 2040 FEIR Mitigation Measure:

MM CUL-1.1 The following measures would apply to all future development and improvement projects that require ground disturbance to reduce and avoid impacts to as yet unidentified archaeological resources:

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

MM CUL -1.2 If the site-specific archaeological resources report recommends monitoring during ground-disturbing activities including but not limited to construction, the following standard measures would apply:

- If no resources are discovered, the consulting archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
- The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Environmental Principal Planner. The report(s) shall identify any program mitigation that the developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).
- A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for approval prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.

In addition to the measures above, the proposed project would require the following Condition of Approval to reduce impacts to undiscovered archeological resources.

Condition of Approval

- **Cultural Sensitivity Training.** Prior to issuance of any grading permit, the project applicant shall be required to conduct Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Therefore, through inclusion of the mitigation measures and Condition of Approvals above, the proposed project would identify and protect any materials discovered on-site and the proposed project would not result in new or more significant impacts on an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **[New Less than Significant Impact with Mitigation Incorporated (Less than Significant Impact)]**

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

Due to the historic development of the project site and location of the site, it is unlikely for the proposed project to encounter human remains interred outside of formal cemeteries. Although unlikely, unanticipated human remains, including those interred outside formal cemeteries, may be encountered during the ground disturbing activities of project construction. The proposed project would include the following measure required for projects in the Downtown San José area to reduce any impacts from undiscovered human remains.

Required Downtown Strategy 2040 Standard Permit Conditions:

The project will be required to implement the following measures.

- **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 Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will 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.

- **Follow Statutory Procedures if Human Remains are Encountered.** Pursuant to Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the remains are of Native American origin, the Coroner shall notify the NAHC who shall attempt to identify descendants of the deceased Native American to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist shall recover scientifically valuable information, as appropriate and in accordance with the recommendations of the Native Americans. Upon completion of analysis, as appropriate, the archaeologist shall prepare a report documenting the methods and results of the investigation. This report shall be submitted to the NWIC.

If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Therefore, the proposed project would not result in new or more significant impacts on human remains interred outside of official cemeteries. **[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. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO 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.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

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.[20] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[21]

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.

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.[22]

City of San José

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

- Transition to a renewable energy future
- Embrace our California climate
- Densify our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices

[20] California Building Standards Commission. "California Building Standards Code." Accessed June 19, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[21] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed June 19, 2022. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[22] California Air Resources Board. "The Advanced Clean Cars Program." Accessed June 19, 2022. https://www.arb.ca.gov/msprog/acc/acc.htm.

- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

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.

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).

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

Policy	Description
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-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.

Policy	Description
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.
MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
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.
MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
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.
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.
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.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
MS-19.10	Develop incentives to encourage the use of recycled water. Enact ordinances that ensure that new buildings in the vicinity of the SBWR pipeline are constructed in a manner suitable for connection to the recycled water system and that they use recycled water wherever appropriate.
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

Policy	Description
	of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
VN-1.1	Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.
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.
TR-1.4[23]	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.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,359.4 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[24] 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 20 percent (1,473.2 trillion Btu) for residential uses, 19 percent (1,396.7 trillion Btu) for commercial uses, 23.2 percent (1,704.4 trillion Btu) for industrial uses, and 37.8 percent (2,785.1 trillion Btu) for transportation.[25] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2021 was consumed primarily by the non-residential sector (74 percent), followed by the residential sector consuming 23 percent. In 2021, a total of approximately 16,904 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[26]

[23] TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.
[24] United States Energy Information Administration. "State Profile and Energy Estimates, 2021." Accessed May 2, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[25] United States Energy Information Administration. "State Profile and Energy Estimates, 2021." Accessed May 2, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[26] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed June 15, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electrical power, 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 from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2022, California's natural gas supply came from a combination of in-state production and imported supplies from other western states and Canada.[27] In 2021 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 0.01 percent, the industrial sector used 33 percent.[28] In 2021, Santa Clara County used less than one percent of the state's total consumption of natural gas.[29]

Fuel for Motor Vehicles

In 2022, California produced 122 million barrels of crude oil and in 2019, 15.4 billion gallons of gasoline were sold in California. [30] [31] 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 25.4 mpg in 2021.[32] 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 updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026. [33,34]

The project site is not occupied by structures that require energy or gas resources.

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[27] California Gas and Electric Utilities. 2022 *California Gas Report.* Accessed June 15, 2023. https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf.

[28] United States Energy Information Administration. "Natural Gas Consumption by End Use. 2021." Accessed June 15, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.

[29] California Energy Commission. "Natural Gas Consumption by County." Accessed June 15, 2023. http://ecdms.energy.ca.gov/gasbycounty.aspx.

[30] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." June 15, 2023. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

[31] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed June 15, 2023. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[32] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. https://www.epa.gov/system/files/documents/2022-12/420r22029.pdf.

[33] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed June 15, 2023. http://www.afdc.energy.gov/laws/eisa.

[34] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed June 15, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

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?	☐	☐	☐	☒	☐

Similar to 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.

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

Construction of the first phase of the project would be scheduled for six days a week for 26 months (approximately 696 construction workdays) and the second phase office conversion would be built over approximately 15 months (approximately 394 construction workdays). Construction activities would include demolition, site preparation, grading, trenching, building construction, architectural coating, and paving. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer Standard Permit Conditions identified in Section 4.3 Air Quality of this document). Additionally, the project would comply with the City's Construction and Demolition Diversion Program. For these reasons, the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

The proposed project would result in the construction of a mixed-use building with a 345-unit residential tower and a parking tower that would be converted into an approximately 210,328 square foot office building in about 10 years. Additionally, the proposed project features

approximately 13,445 square feet of retail spaces along the project frontages. All phases of the proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. In addition, General Plan Action MS-2.11 requires development to incorporate green building practices through construction, architectural design, and site design techniques. The proposed project includes on-site renewable energy resources (solar panels), and the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance.

The proposed project would be required to meet the City's bicycle parking requirement. In addition, the project site is in proximity to multiple existing transit services. The San José Diridon Transit Center is located approximately one mile from the site and bus and light rail train stations are within walking distance. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site and would reduce gasoline consumption.

Implementation of the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during operation of the project. **[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 would be served by SJCE and would be built in accordance with CALGreen requirements, Title 24 of the City's Municipal Code, City of San José Council Policy 6-32, and the City's Green Building Ordinance. Implementation of the proposed project would not conflict with or obstruct implementation of a state or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 Geology and Soils

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 materials 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.

City of San José

City of San José Policies

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 geologic and seismic hazards and are applicable to the project.

General Plan Policies - Geology, Soils, and Seismic Hazards

Policy	Description
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.
ES-4.10	Update, as necessary, the San José Building Code, Fire Prevention Code and Municipal Code to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes.
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.
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.

Policy	Description
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.
EC-3.5	Locate, design and construct vital public utilities, communication infrastructure, and transportation facilities in a manner that maximizes risk reduction and functionality during and after an earthquake.
EC-3.6	Restrict development in close proximity to water retention levees or dams unless it is demonstrated that such facilities will be stable and remain intact during and following an earthquake.
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-4.3	Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.
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 15 and April 15.
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*

The project site is located in northern Santa Clara Valley, which is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley is underlain by sedimentary and metamorphic rocks of the Franciscan Complex. Overlying these rocks are alluvial sediments deposited by streams draining the adjacent mountains during recent geologic times (Holocene age). The alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay,

and gravel.[35] [36] Groundwater under the project site is estimated to be approximately 10 feet below the ground surface.[37]

Surface soils in the project area have been mapped as Urbanland-Campbell complex, 0 to 2 percent slopes, protected soils which have a slow infiltration rate and a moderate to high shrink-swell (expansion) potential. Expansive soils occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity of buildings and other structures place on site.[38]

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?	☐	☐	☐	☒	☐

[35] R.J. McLaughlin, J.C. Clark, E.E. Brabb, E.J. Helley, and C.J. Colon. USGS. Geologic Maps and Structure Sections of the Southwestern Santa Clara Valley and Southern Santa Cruz Mountains, Santa Clara and Santa Cruz Counties, California. 2001.
[36] E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth. Quaternary Geology of Santa Clara Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database. May 1994.
[37] Cornerstone Earth Group. Phase 1 Environmental Site Assessment. January 19, 2021.
[38] USDA. Web Soil Survey. Custom Soil Resource Report for Santa Clara Area, California, Western Part. December 2023.

	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) 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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

Similar to 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?

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045. As mentioned above in Section 4.7.1.2, no active faults have been mapped on-site and, as a result, the risk of fault rupture is low. The project site and area are relatively flat and have a low potential for lateral spreading during seismic events. Additionally, the project site is located within an area of moderate expansion potential.

Standard Permit Condition:

Consistent with the General Plan and current standard practices in the City of San José, the project applicant would be required to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts:

- 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 Geotechnical Report should include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the 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 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 California Building Code.

With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Ground disturbance during construction of the project would expose soils, increasing the potential for wind and/or water erosion at the site. The proposed project would be required to implement the following Standard Permit Conditions to reduce significant construction-related soil erosion.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

In addition to the Standard Permit Conditions, the project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination

System (NPDES) General Construction Permit and the City's Municipal Code (refer to Section 4.10, Hydrology and Water Quality). Implementation of the Standard Permit Conditions and applicable policies and regulations would reduce soil erosion impacts to a less than significant level. **[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?

The project site is not located in an area with significant topographic variety and the entire project site is mostly level. Therefore, the proposed project would not result in instability from landslides or lateral spreading. Based on the Liquefaction Hazard maps provided by USGS, the project site is in a low-risk area for liquefaction and subsidence in the event of seismic activity.[39] In the event of a seismic event, there is still a potential for liquefaction, especially due to the depth of groundwater under the site, however the proposed project would be required to incorporate the Standard Permit Condition to prepare design level geotechnical investigations, as noted in impact a), which would include evaluation of groundwater dewatering on the project site.

Therefore, with the inclusion of the design level geotechnical investigation standard permit condition above, the proposed project would have a less than significant risk from construction on an unstable geologic formation. **[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?

Surface soils in the project area have been mapped as Urbanland-Campbell complex, 0 to 2 percent slopes, protected soils which have a moderate to high shrink-swell (expansion) potential.[40] This is due to the clays present in the soils which have cycles of wet and dry periods that result in changes in the space between the particles.

The Downtown Strategy 2040 FEIR concluded that new development and redevelopment allowed under the Downtown Strategy 2040 could occur in areas with identified soil hazards, including expansive soils and artificial fill. In conformance with the Downtown Strategy 2040 FEIR and current practices in the City of San José, a geotechnical investigation addressing the potential hazards of soil liquefaction and expansion must be submitted, as noted in the Standard Permit Condition in Impact a). Although the soil on-site has moderate expansion potential, implementation of the previously identified Standard Permit Conditions would ensure that the project would have no substantial

[39] USGS. Northern Santa Clara Valley Liquefaction Hazard Maps. Accessed June 19, 2023. https://www.usgs.gov/programs/earthquake-hazards/science/northern-santa-clara-valley-liquefaction-hazard-maps.

[40] NRCS. Web Soil Survey. Custom Soil Resource Report for Santa Clara Area, California, Western Part. December 11, 2023.

direct or indirect risk to life or property. **[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 site is served by the local sewer system and would not need septic tanks or alternative waste disposal systems to be installed. Therefore, the project would have a less than significant impact regarding septic tanks or alternative waste disposal systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The proposed project would require some excavation extending to approximately 20 feet bgs, which may result in the discovery of unknown paleontological resources. Therefore, the following Standard Permit Condition would be required.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement or the 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 Planning, Building and Code Enforcement or the Director's designee.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7.2.1 *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 geology and soils conditions affecting a proposed project.

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered 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-site or on adjoining properties. Pursuant to the Downtown Strategy 2040 FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

Additionally, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.

The project site contains soil with moderate expansion potential. Consistent with Action EC-4.11, the project applicant would be required to submit a design-specific geotechnical report during the permit review and issuance process. The proposed project would be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent CBC, which contains the regulations that govern the construction of structures in California. Adherence to the CBC would reduce seismic related impacts and ensure that the new development proposed within areas of geologic hazards would not be endangered by hazardous site conditions.

4.8 Greenhouse Gas Emissions

The information in this section is based on the GHG Reduction Strategy (GHGRS) Checklist prepared for this project. The checklist is included as Appendix C of this environmental document for reference.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). 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. 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 and State 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. The first Scoping Plan was approved by CARB in 2008 and must be updated at least every five years. Since 2008, there have been two updates to the Scoping Plan.

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 $MMTCO_2e$.

2022 Scoping Plan

On December 15, 2022, CARB approved the 2022 Scoping Plan. The 2022 Scoping Plan provides a sector-by-sector guide on how to reduce man-made (i.e., anthropogenic) GHG emissions by 85 percent below 1990 levels and achieve carbon neutrality by 2045 over a 25-year horizon.[41] The primary focus of the 2022 Scoping Plan is to reduce the usage of fossil fuels by electricizing the transportation sector, procuring electricity from renewable resources, phasing out natural gas in land use developments, and building transit-oriented communities that encourage multi-modal transportation. If implemented successfully, the 2022 Scoping Plan would not only reduce GHG emissions but also reduce smog-forming air pollution (NO_x) by 71 percent and reduce fossil fuel demand by 94 percent. The 2022 Scoping Plan also details natural carbon capture and storage process along with mechanical carbon capture programs to address the remaining 15 of anthropogenic GHG emissions that will remain post-2045. To meet these goals, CARB also includes a revised goal of reducing state GHG emissions 48 percent below 1990 levels by 2030.

Senate Bill 375 and Plan Bay Area 2050

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 Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

[41] CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. November 16, 2022. Page 5.

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 2050.

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified priority development areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[42]

Play Bay Area 2050 includes a goal to increase the number of households that live within 0.5 mile of frequent transit by 2050. Plan Bay Area 2050 promotes strategies that support active and shared modes, combined with a transit-supportive land use patterns, which together are forecasted to lower the share of Bay Area residents that drive to work alone from 50 percent in 2015 to 33 percent in 2050, resulting in a decrease in GHG emissions. Plan Bay Area 2050 also includes goals to expand TDM initiatives that support and augment employers' commute programs, providing a path to emissions reductions.

SB 100

SB 100, known as The 100 Precent Clean Energy Act of 2018, was adopted on September 10, 2018. The overall goal is to have all retail electricity sold in California be procured from 100 percent renewable and zero-carbon resources by the year 2045. SB 100 also modified the renewables portfolio standard to 50 percent by 2025 and 60 percent by 2030.

Executive Order B-55-18 and Assembly Bill 1279

Executive Order B-55-18 was issued in September 2018. It ordered a new statewide goal of achieving carbon neutrality no later than 2045 and to maintain net negative emissions thereafter.

Assembly Bill 1279, also known as the California Climate Crisis Act, was approved on September 16, 2022 and codifies the statewide goal set by Executive Order B-55-18 of achieving net zero GHG emissions no later than the year 2045 and maintaining net negative emissions thereafter. In addition, this bill has a statewide goal of reducing anthropogenic GHG emissions by 85 percent below the 1990 levels by the year 2045. The bill requires CARB to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and strategies that enable CO_2 removal solutions and carbon capture, utilization, and storage technologies in California are implemented. The bill requires CARB to submit an annual report.

[42] Association of Bay Area Governments and Metropolitan Transportation Commission. Plan Bay Area 2050. October 21, 2021. Page 20.

Advanced Clean Cars II Regulation

To continue reducing air pollutants and GHG emissions in the transportation sector, CARB adopted the Advanced Clean Cars II Regulations (Resolution 22-12) on August 25, 2022. The new regulation requires that by 2035 all new passenger cars, trucks, and SUVs sold in California will be zero emissions. This regulation bans the sale of new gasoline or diesel passenger cars, trucks, and SUVs in California from automakers. Beginning in the 2026, 35 percent of new vehicle sales must be zero-emission vehicles and plug-in hybrid electric vehicles and that percentage will increase per year. By 2030, 70 percent of new vehicle sales will be zero-emissions vehicles and by the 2035 model year 100 percent of new vehicle sales will be zero-emissions. CARB will limit the use of plug-in hybrid electric vehicles in the percentage requirements to keep the manufacturing of zero-emissions as the primary goal. Existing gasoline cars can continue to be driven and sold as used cars beyond 2035. CARB is required to track and report on the zero-emissions vehicle market development annually.

California Building Standards Code – Title 24 Part 11 and Part 6

The CALGreen Code is part of the California Building Standards Code under Title 24, Part 11.[43] The CALGreen Code encourages sustainable construction standards that incorporate planning/design, energy efficiency, water efficiency resource efficiency, and environmental quality. These green building standard codes are mandatory statewide and are applicable to residential and non-residential developments. The most recent CALGreen Code (2022 CALGreen Code) was effective as of January 1, 2023.

The California Building Energy Efficiency Standards (California Energy Code) is under Title 24, Part 6 and is overseen by the CEC. This code includes design requirements to conserve energy in new residential and non-residential developments. This Energy Code is enforced and verified by cities during the planning and building permit process. The 2022 Energy Code replaced the 2019 Energy Code as of January 1, 2023. There are new 2022 standards for single-family residences, multi-family residences, and non-residential uses.[44,45,46] Major changes include electric-ready single-family and multi-family residence and solar photovoltaic systems and energy storage systems for residential and commercial developments.

Requirements for electric vehicle (EV) charging infrastructure are set forth in Title 24 of the California Code of Regulations and are regularly updated on a three-year cycle. The CALGreen standards consist of a set of mandatory standards required for new development, as well as two more voluntary standards known as Tier 1 and Tier 2. The 2022 CALGreen standards require

[43] Refer to https://codes.iccsafe.org/content/CAGBC2022P1/chapter-5-nonresidential-mandatory-measures.
[44] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Single-Family Residential." Revised July 15, 2022. Accessed December 15, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Single-family_Whats_New_Summary_ADA.pdf.
[45] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Multifamily." Revised August 4, 2022. Accessed December 15, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Multifamily_Whats_new_Summary_ADA.pdf.
[46] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Nonresidential." Revised August 4, 2022. Accessed December 15, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Nonresidential_Whats_New_Summary_ADA.pdf.

deployment of additional EV chargers in various building types, including multi-family residential, hotel, and non-residential land uses. They include requirements for both EV capable parking spaces and the installation of EV supply equipment for multi-family residential and nonresidential buildings. The 2022 CALGreen standards also include requirements for both EV readiness and the actual installation of EV chargers. The 2022 CALGreen standards include both mandatory requirements and more aggressive voluntary Tier 1 and Tier 2 provisions:

- CALGreen Tier 1 standards require multi-family developments and hotels with less than 20 units to have 35 percent of the total number of parking spaces EV ready; if there are more than 20 units, 10 percent of the parking spaces must be provided with EV supply equipment. These standards also require 30 percent of total parking spaces to be EV capable and 33 percent of parking spaces to be EV capable with EV supply equipment for non-residential and non-hotel uses.
- CALGreen Tier 2 standards require multi-family developments and hotels with less than 20 units to have 40 percent of the total number of parking spaces EV ready; if there are more than 20 units, 15 percent of the parking spaces must be provided with EV supply equipment. For non-residential and non-hotel uses, 45 percent of total parking spaces require EV capable spaces and 33 percent of parking spaces require EV capable spaces provided with EV supply equipment.

CALGreen also requires new construction and demolition projects to have a diversion of at least 65 percent of the construction waste generated. CALGreen also allows a disposal reduction option that can be met when the project's disposal rate is 2.0 pounds per square foot or less for non-residential and high-rise residential construction or 3.4 pounds per square foot or less for low-rise residential construction.

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 Clean Air Plan 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.

BAAQMD CEQA Thresholds for Evaluating Climate Impacts from Land Use Projects and Plans

On April 20, 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan will have a significant impact on climate change and provides the substantial evidence to support of these thresholds. The April 2022 GHG thresholds replace the GHG thresholds set forth in the May 2017 BAAQMD CEQA Air Quality Guidelines and represent what is required of new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.

City of San José Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinances (reach codes) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The reach codes apply 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 Rating and be electrification ready. In addition, the reach codes require EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by SB 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multi-modal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.

City of 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)
- Construction and Demolition Diversion 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 proposed Downtown Strategy 2040 would be subject to this policy.

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. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to Sections 4.3 Air Quality, 4.6 Energy, and 4.16 Transportation for these policies.

General Plan Policies - GHG Emissions

Policy	Description
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-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
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-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
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.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric

Policy	Description
	charging infrastructure at new large employment sites and large, multiple family residential developments.

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 empty and does not contribute to GHG emissions.

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?	☐	☐	☐	☒	☐

Similar to 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.

The BAAQMD threshold of significance for land use development projects is to either A) incorporate project design elements and achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan or B) be consistent with a local GHG reduction strategy that meets the criteria of CEQA Guidelines Section 15183.5 (b).

Project-Level Impact

Pursuant with BAAQMD, for land use projects to result in a less than significant GHG emissions impact, the land use project would need to comply with threshold A or B below.

A. Projects must include, at a minimum, the following project design elements:
   1. Buildings
      a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
      b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
   2. Transportation
      a. Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:
         i. Residential projects: 15 percent below the existing VMT per capita
         ii. Office projects: 15 percent below the existing VMT per employee
         iii. Retail projects: no net increase in existing VMT
      a. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

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

Construction Emissions

Phase 1 – Residential Tower and Parking Tower

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. The first phase of project construction would occur over a period of approximately 26 months (696 construction workdays). This construction phase would not result in a permanent increase in emissions. Therefore, the proposed project would not interfere with the implementation of SB 32.

Phase 2 – Conversion of Parking Tower to Office Tower

As stated above, construction activities on-site would result in temporary GHG emissions. The second phase of construction would occur over a period of approximately 15 months (394 construction workdays) approximately ten years removed from the original project construction. This construction phase would not result in a permanent increase in emissions. Therefore, the

proposed project would not interfere with the implementation of SB 32. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data.

Phase 1 – Residential Tower and Parking Tower

Phase 1 of the project is consistent with the General Plan land use designation for the site and planned growth from build out of the Downtown Strategy 2040 residential capacity.

Phase 2 – Conversion of Parking Tower to Office Tower

Phase 2 of the proposed project would add office uses to the project site. The FAR of the office would be consistent with the land use designation for the site and planned growth from build out of the Downtown Strategy 2040 office capacity. The residential tower constructed on-site in Phase 1 would remain unchanged.

The Downtown Strategy 2040 determined that full build out of the residential and office capacity in the Downtown area would not result in a significant impact to GHG emissions because the Downtown area is a multimodal hub with low VMT and plentiful access to transit. Phase 1 and Phase 2 of the project would also comply with the City's GHGRS (as discussed below) and would result in a less than significant GHG emissions impact Therefore, because the proposed project is consistent with the policies proved to result in less than significant impacts resulting from GHG the proposed project would have a less than significant impact. **[Less Impact than 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?

2030 Greenhouse Gas Reduction Strategy

Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed project is within the development capacity approved by the Downtown Strategy 2040 FEIR; therefore, the project would have land use consistent with the assumptions in the 2030 GHGRS.

The GHGRS includes seven strategies for emissions reductions. These include enrollment in SJCE, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would include photovoltaic cells on the rooftops of the parking structure which would provide clean energy for the proposed project.

Additionally, the proposed project would enroll in SJCE for the remaining energy needs of the project, which represents the largest reduction in GHG emissions identified in the reduction strategy.

The proposed project is consistent with the Land Use/Transportation Diagram designation of Downtown. The proposed project would also incorporate all applicable mandatory measures of the GHGRS (refer to Appendix C), including installing clean energy power generation sources, using 100 percent carbon-free electricity, exceeding the City's construction & demolition waste diversion requirement, implementing a Transportation Demand Management program, installing high-efficiency appliances/water fixtures and water-sensitive landscaping, and providing access to reclaimed water for outdoor water use.

For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.9 Hazards and Hazardous Materials

The information in this section is based in part on the Phase 1 Environmental Site Assessment, completed on January 19, 2021, prepared by Cornerstone Earth Group. This report is included as a part of this environmental document as Appendix D.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

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.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the

environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[47]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement

[47] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed December 15, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.

authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[48]

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).[49]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

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-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.[50] The EPA is currently considering a proposed ban on on-going use of

[48] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed December 15, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[49] California Environmental Protection Agency. "Cortese List Data Resources." Accessed December 15, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[50] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed December 15, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

asbestos.[51] National Emission Standards for Hazardous Air Pollutants (NESHAP) 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 the 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.

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 hazards and hazardous materials and are applicable to the project.

General Plan Policies - Hazards and Hazardous Materials

Policy	Description
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
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.

[51] Ibid.

Policy	Description
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-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
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.
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.
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*

Historic land Uses On-site

A timeline of historic uses of the project site was compiled as a part of the Phase I Environmental Site Assessment (ESA). This was created using past site assessments, historical aerial photographs, historical topographic maps, and historical fire insurance maps.

Based on this information, Table 4.9-1 outlines the uses of the project site.

Table 4.9-1 Summary of Historic Site Use

Date	Use
1884	No on-site structures can be seen in aerial photography or maps.
1891	The project site is occupied by a cooper shop, a fruit packing depot, and a residential structure.
1915	The project site continues to be occupied by the cooper shop and the Bean Spray Pump Company, including a warehouse, storage structure, engine repair area, tool room, metal working area, and office. Railroad track spurs bisect the site.
1931	Edison High School and Longfellow Public School can be seen in aerial imagery on the south side of the site and the other warehouses are still present.
1950	The site is occupied by a U.S government canned goods warehouse and an autobody shop with car painting and tire warehouses. Three structures on the north side of the project site are present which are from the spray and pump company structures.
1968-1969	The site is occupied by a foundry, lithography business, furniture store, and junkyard. The three structures on the north side of the site are now used for storage and warehouse uses. The railroad tracks are still present on-site.
1974 - 1982	In addition to the structures present in 1969, two additional structures have been constructed on the northwestern portion of the site. This includes a storage space for a paper goods company.
1982-1993	The structures that were present on-site prior have been demolished and the site is vacant.
1993-2012	The site is vacant and the southwestern side of the site is use as a temporary parking area or storage zone.

Based on the historical uses of the project site, a variety of insecticides, fungicides, DDT, sulfur, copper, and lead arsenate could have been present on-site. Additionally, the autobody, lithographic, and manufacturing activities may have resulted in contamination from fuels, lubricants, solvents, metal, and other manufacturing materials.

Environmental Hazardous Conditions On-site

Soil, Groundwater, and Soil Vapor

The project site has several environmental hazards present. Based on prior studies on the site, which included soil and groundwater sampling, areas of elevated metals, hydrocarbons, asbestos, and PCBs were found sporadically exceeding residential screening levels. Additionally, in some samples, soluble lead was found to exceed the Soluble Threshold Limit Concentration and DDT was found in excess of the Total Threshold Limit Concentration.

Groundwater on-site was also sampled in past studies and diesel products were found in levels up to 12,000,000 micrograms per liter (ug/L), higher than the Waterboard Environmental Screening Level (ESL) of 100 ug/L. Additionally, in one boring benzene and toluene were detected. Benzene levels were found at 1.7 ug/L which exceeded the Waterboard ESL of 1.0 ug/L. Further motor oil was detected at levels up to 86,000 ug/L in the most recent samples.

In addition to soil and groundwater contamination, the site was inspected for soil vapor issues. Volatile Organic Compounds (VOCs), including carbon tetrachloride, chloroform, Perchloroethylene (PCE), Trichloroethylene (TCE), benzene and ethylbenzene, were detected exceeding ESLs for residential uses. PCE was the primary chemical of concern with a concentration of 4,123 ug/L which is above the residential ESL of 15 ug/L. As part of the most recent Phase 1 ESA conducted by Cornerstone in December of 2020, a structure made of redwood was found in a test pit during soil sampling. This structure was close to areas with the highest PCE concentrations and where total petroleum hydrocarbons (TPH) concentrations were identified in groundwater.

Regulatory Conditions

The project site is currently under an open Cleanup Program Site (CPS) case with Waterboard oversight. This requires conditions to be applied to developments on-site, including preparation of site management plans, preparation of vapor intrusion mitigation system feasibility studies, preparation of an asbestos dusts mitigation plan, and establishment of a Deeds Restriction for the site limiting certain uses.

Environmental Hazardous Conditions Off-site

Based on the findings of the Phase 1, which utilized a one-mile search radius, there are no nearby sites which have had spills which could have affected the project site. There are some nearby facilities where hazardous materials have been used, however none of these sites have had releases that could have affected the project site.

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?	☐	☐	☐	☒	☐

	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:					
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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

Similar to 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?

Construction Impacts

During construction of the proposed project the site would be excavated, and soil would be disturbed and transported off-site. Based on the Phase I prepared for the project site, the soils and groundwater on-site contain elevated levels of petroleum products, solvents, and agricultural pesticide byproducts. Disturbance of these materials could result in impacts on construction workers on-site who come into contact with contaminated materials.

Impact HAZ-1 The construction of the proposed project would potentially expose on-site construction workers to elevated levels of various chemicals in the soil, soil vapor, and groundwater.

Mitigation Measures

MM HAZ-1.1 Prior to issuance of any demolition or grading permits, the project applicant shall provide an update on the project's hazardous materials conditions and regulatory status with the Regional Water Quality Control Board (RWQCB). Pertinent information such as reports and regulatory correspondence shall be provided. The update should include confirmation from the RWQCB that adequate investigation and mitigation measures (e.g. soil removal reports, feasibility studies, site management plan, vapor intrusion mitigation systems) have been performed or will be installed during construction to ensure construction workers safety as well as protect public health for the future site occupants and visitors. Copies of all environmental investigations shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.2 Prior to approval of grading permits, the project applicant will prepare a Site Asbestos Dust Mitigation Plan consistent with Air Board Toxic Control Measure Section 93105. This plan will be reviewed by the Bay Area Air Quality Management District for approval.

With implementation of the identified mitigation, the proposed project would provide measures to reduce hazards to construction workers and the public consistent with the RWQCB. Therefore, the proposed project would not represent a significant risk to the health of construction workers. **[New Less than Significant Impact with Mitigation (Less than Significant Impact)]**

Operational Impacts

As proposed, the project would develop a vacant site with a mixed-use building that would include a residential tower and a parking tower. These uses are not associated with the use or transportation of hazardous chemicals. After the transition of the parking structure into an office building, no additional sources of hazardous materials would be added to the site. Therefore, the proposed project would result in a less than significant impact resulting from transport, use or disposal of hazardous materials. **[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?

Construction Impacts

As stated above, construction activities would result in disturbance of on-site materials which would result in construction workers being exposed to contaminated soil and/or groundwater. The

proposed project would be required to comply with Mitigation Measures MM HAZ-1.1 and MM HAZ-1.2 which would reduce exposure hazards associated with the existing soil and soil vapor impacts on construction workers to a less than significant level. Therefore, the proposed project would have a less than significant hazard impact resulting from foreseeable accident conditions during construction, with mitigation incorporated.

Operational Impacts

The proposed project would not construct uses on-site which handle hazardous materials. Any chemicals or other materials used for cleaning or as a part of the operations of the water treatment facility on-site would be contained per applicable regulations and used in small quantities which would not represent any hazards to future occupants of the project site or nearby land uses. Therefore, the proposed project would not result in 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. **[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 project site is located within a quarter mile of the Hillbrook School – Upper School Campus, located at 227 North First Street. The proposed project would construct a mixed-use project featuring residential, office, and commercial uses on-site. These uses would not result in the creation of significant emissions of hazardous or acutely hazardous materials because they would primarily only use household/cleaning chemicals and only in small amounts. During construction of the proposed project, remediation of the project site would result in the removal and transport of contaminated soils. These activities would be implemented consistent with mitigation measures MM HAZ-1.1 and MM HAZ-1.2 and would be required to comply with all applicable regulations of the City and all other agencies with oversight of the project. This would prevent the release of any hazardous materials during construction and would protect students attending the nearby school site. Therefore, the proposed project would not result in emission of hazardous emissions or handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **[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 project site is not listed on the Cortese List complied pursuant to Government Code Section 65962.5. Additionally, the site would undergo cleanup as discussed and would not present a significant hazard to the public or environment. Therefore, the proposed project would not result in

new or more significant impacts from hazardous materials. **[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 site is located approximately 1.2 miles southeast of the Norman Y. Mineta San José International Airport. The project site is located within the Norman Y. Mineta San José International Airport Comprehensive Land Use Plan (CLUP)-defined Airport Influence Area Under Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace", any proposed structure on the project site (including construction cranes) exceeding approximately 43 feet in height above ground level (AGL) / 123 feet above mean sea level (AMSL) would require submittal to the FAA for airspace safety review. As the maximum height of both the proposed building and parking structure exceeds 43 feet AGL, permitee shall obtain from the FAA a "Determination of No Hazard" for both of the proposed building's rooftop corners and any additional higher points. The applicant would be required to implement the following Standard Permit Conditions to ensure that the project does not result in a safety hazard or excessive noise due to airport activities.

Condition of Approval

- FAA Clearance Permit Adjustment. Prior to issuance of any Building Permit for construction, the permittee shall apply for and obtain a Permit Adjustment to incorporate any and all FAA conditions identified in the Determination of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications.

The project would be required to follow all applicable General Plan policies, regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport. Upon compliance with the conditions set forth by the FAA in its determination, the proposed project would not create a significant hazard in relation to the airport. **[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 proposed project is consistent with the General Plan and would not alter evacuation routes. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact. **[Same Impact as Approved Project (Less than Significant 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?

The proposed project would be constructed in the Downtown San José area which is not located in a wildfire hazard severity zone. Therefore, the proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.9.2.1 *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 hazards and hazardous materials conditions affecting a proposed project. General Plan Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users and provide as part of the environmental review process.

Based on the information above, the soil on-site contains elevated levels of contaminants, including PCE, which could create vapor intrusion risks and would represent a health risk to residents on site if untreated. As stated above, the proposed project would conduct soil management processes to conduct preliminary cleanup of the site, however, the site has been conditioned by the Water Board to enact a vapor intrusion mitigation system to reduce risks of vapor intrusion on residents.

Conditions of Approval

Prior to the approval of grading permits, a vapor intrusion mitigation system design report and operation, maintenance, and monitoring plan shall be prepared in accordance with Water Board procedure. The report shall be submitted to the Water Board for concurrence and shall be provided to the Director of Planning, Building and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department prior to issuance of grading permits. The report and plan to be prepared and implemented under the Water Board shall include, but may not be limited to, the following elements:

- Soil vapor monitoring at the outside of the building to assess ongoing soil vapor risks to future residents, which can provide a path to future case closure.
- Pre-occupancy indoor air monitoring in the building to assess the vapor intrusion mitigation system effectiveness after construction of the proposed building.
- The applicant would be required to meet the requirements of the Water Board oversight body and remediate the effects of vapor intrusion on future residents of the site. Therefore, the proposed project would be consistent with General Plan Policy EC-7.2.

4.10 Hydrology and Water Quality

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

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

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.[52]

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) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk

[52] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022. Accessed June 20, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

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 May 2022, effective July 1, 2023, 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.[53] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 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: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flow-controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or

[53] California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.

(3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[54]

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[55] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family residential and wood frame structures are exempt.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

[54] The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

[55] California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[56]

Post-Construction Urban Runoff Management (City Council Policy No. 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 Best Management Practices (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.

Post-Construction Hydromodification Management (City Council Policy No. 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.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

City of San José

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new 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, add, or replace 10,000 square feet or more of impervious surfaces.

[56] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit.

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.

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

Policy	Description
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.
EC-5.3	Preserve designated floodway areas for non-urban uses.
EC-5.5	Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans.
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.
EC-5.13	As a part of the City's policies for addressing the effects of climate change and projected water level rise in San Francisco Bay, it requires evaluation of projected inundation for development projects near San Francisco Bay or at flooding risk from local waterways which discharge to San Francisco Bay. For projects affected by increased water levels in San Francisco Bay, the City requires incorporation of mitigation measures prior to approval of development projects. Mitigation measures incorporated into project design or project location shall prevent exposure to substantial flooding hazards from increased water levels in San Francisco Bay during the anticipated useful lifetime of structures.
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.

Policy	Description
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.
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.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
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.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
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-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.8	In designing improvements to creeks and rivers, protect adjacent properties from flooding consistent with the best available information and standards from the Federal Emergency Management Agency (FEMA) and the California Department of Water Resources (DWR). Incorporate restoration of natural habitat into improvements where feasible.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

4.10.1.2 *Existing Conditions*

Storm Drainage and Water Quality

The nearest water resource is the Guadalupe River located approximately 0.2 miles west of the site. Water from the project site is currently channeled into storm drains located adjacent to the project site and on the corner of Terraine Street and Bassett Street. These storm drains connect to the City's storm drain system which carries runoff into the Guadalupe River, and eventually into the San Francisco Bay.

According to the EPA[57], the Guadalupe River is currently listed on the 303(d) list of impaired waterways for pesticides, mercury, and trash.

Flooding

According to the FEMA Flood Insurance Rate Maps (FIRM), the project site is located in Flood Zone D and X. Zone D is a flood zone that does not have a defined flood hazard where flood hazards are possible, and Zone X is an area with a 0.2 percent Annual Chance Flood Hazard or Areas of one percent annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. There are no City floodplain requirements for Zone D or X.[58]

Dam Failure

The project site is located within the James J. Lenihan and Leroy Anderson Dam failure inundation hazard zones.[59]

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[60]

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[57] United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.). 2022. Accessed June 13, 2023. https://mywaterway.epa.gov/community/santa%20clara%20county/overview.

[58] FEMA. National Flood Hazard Layer FIRMette. Map No. 06085C0234H. Effective 5-18-2009. Accessed June 13, 2023. https://www.fema.gov/flood-maps/national-flood-hazard-layer.

[59] Department of Water Resources. Dam Breach Inundation Map Web Publisher. Accessed June 13, 2023. https://fmds.water.ca.gov/webgis/?appid=dam_prototype_v2.

[60] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed June 13, 2023. http://resilience.abag.ca.gov/tsunamis/.

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Based on the Phase 1 Environmental Site Assessment prepared for the project, the project site has groundwater depth of approximately 10 feet below the ground surface. This level could fluctuate with rainfall, seasonal conditions, and underground drainage patterns.

Hydromodification

Based on the Downtown Strategy 2040 FEIR, the Downtown area is located within a sub-watershed that is greater than 65 percent impervious. Therefore, the proposed project would be exempt from hydromodification requirements.

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:	☐	☐	☐	☒	☐
– 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;	☐	☐	☐	☒	☐

	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:					
– 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?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040, 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?

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is approximately 1.57 acres in size and would disturb more than one acre of soil; therefore, the project would be required to obtain an NPDES General Permit for Construction Activities. Additionally, all development projects in the City are required to comply with the City of San José's Grading Ordinance.[61]

Condition of Approval

Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

[61] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

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 shall 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 shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Through compliance with the Condition of Approval and Standard Permit Conditions, the proposed project would not violate any water quality standards or waste discharge requirements during construction and would have a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction Impacts

Under existing conditions, the project site is 25 percent (approximately 16,998 square feet) covered with impervious surface area. Upon completion of the proposed project, the site would be approximately 85 percent (58,138 square feet) impervious, a net increase of 60 percent. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a

portion of the site depending on the project characteristics. To treat stormwater runoff, the project proposes media filters and self-retaining LID areas. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

Groundwater

Groundwater is estimated to be approximately 10 feet below ground surface. The proposed project would include one level of below-grade parking to a depth of approximately 20 feet bgs which could interfere with the shallow groundwater aquifer. It is reasonable that dewatering would be required during project construction. The proposed project would implement the following standard permit conditions to reduce impacts to groundwater on the project site.

Condition of Approval:

Construction Period

- 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.

Post-Construction

- The project shall be designed so that the below-grade parking garage would be able to withstand hydrostatic groundwater pressure and would not need to pump groundwater on a post-construction basis. If these measures are infeasible then the project can implement groundwater pumping in conformance with applicable permits.
- Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or bioretention unit that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer. Discharge to the sanitary sewer would require review by the City's Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City's Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San José.

- Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San José with the Building Permit application submittal.

The project would comply with the identified Condition of Approval and would have a less than significant impact on water quality. **[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?

The project site is not located within a designated groundwater recharge area for Santa Clara County aquifers.[62] The existing site is approximately 75 percent pervious which would allow for stormwater to infiltrate into the ground on-site and an increase in impervious surfaces would reduce the amount of passive recharge the site provides. The proposed project would include self-treating Low Impact Design features which would allow for as much water as possible to infiltrate on-site during project operations. Therefore, since the project site does not currently provide substantial groundwater recharge, and since the proposed project would allow for as much infiltration as possible, the proposed project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **[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?

Drainage Pattern Impacts

Per the Downtown Strategy 2040 FEIR, existing surfaces within the plan area are largely impervious, making future development unlikely to alter existing drainage patterns such that substantial flooding or erosion would occur in the receiving water bodies. The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway.

[62] Santa Clara Valley Water District. Groundwater Management Plan. November 2016.

Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.10-1 below.

Table 4.10-1 Site Coverage Changes

Condition	Impervious Surfaces	Pervious Surfaces
Existing Conditions	16,998 square feet	51,336 square feet
Project Conditions	58,138 square feet	10,196 square feet
Difference	+41,140 square feet	-41,140 square feet

The proposed project would increase the impervious surfaces on the site by approximately 60 percent which would result in increased runoff during storm events. As a part of the proposed project, the site would feature multiple drainage features including pervious pavers in the driveway on the south edge of the site and four media filtration systems and LID drainage areas, located along the edge of the site on the northwest corner, east side of the site along Terraine Street, and the southeast corner of the site. These would be sized to capture stormwater up to the 10-year storm event and reduce runoff from the project site. Additionally, the media filters and LID features would capture water and allow for the removal of pollutants and contaminants before the water is released into the drainage system which would prevent the proposed project from contributing to any existing water quality issues. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP, to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants.

The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce drainage impacts. In accordance with General Plan policies, future development within the Downtown Strategy 2040 area would be required to be designed and constructed to meet the City's 10-year storm event design standard. As a result, the proposed project would not substantially alter the existing drainage pattern of the site or area. **[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?

The project site is not located within a tsunami or seiche zone, therefore, the proposed project would not result in a risk of release of pollutants as a result of these events.

The proposed project would construct new residential, commercial, and office uses within Zone D and X flood hazard zones which have a potential to experience flooding during storm conditions. Even during these storm conditions, the proposed project would not introduce a significant source

of pollutants to the project site because the uses of the project would properly store and dispose of any waste to prevent it from entering water bodies in the event of a flood event. Further, the flood conditions would be infrequent and would not represent a common site condition. Therefore, the flooding during storm events would not result in a significant risk of pollutant release due to project inundation.

Additionally, the project site is located within dam failure inundation areas for both the Anderson and Lenihan Dams. If these dams failed the project site could be inundated and release common urban pollutants into local waterways. Inundation is not expected to occur during seismic or other emergency events because the dams in Santa Clara County are regularly maintained and undergo inspection from monitoring agencies to prevent failure. Therefore, the risk of pollutant release due to inundation during dam failure would be less than significant. **[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?

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 Land Use and Planning

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

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 land use and are applicable to the project.

General Plan Policies - Land Use

Policy	Description
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.15	Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.
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. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. Locate retail and other active uses at the street level. 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-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured

Policy	Description
	parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
CD-3.4	Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
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 acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
IP-1.5	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and the 2040 General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards including heights to achieve vital mixed-use complete communities and facilitate their implementation.
IP-1.7	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.

4.11.1.2 *Existing Conditions*

The project site is vacant and is located within the boundaries of the Downtown Strategy 2040 Plan area. The project site is designated Downtown in the General Plan and is located in the Downtown Primary Commercial Zoning District. The Downtown General Plan designation allows for up to 800 dwelling units per acre and a FAR of up to 30.0 for buildings three to 30 stories tall. All development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The Downtown Primary Commercial zone provides permitted uses for general retail, food services, and offices/financial services, among other uses.

Surrounding land uses include residential land uses to the north and east sides of the site, a freeway to the west side of the site, and a parking lot and office use to the south. These areas are also designated as Downtown in the General Plan and zoned Downtown Primary Commercial.

4.11.2 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) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐
c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040, the proposed project would result in less than significant land use impacts, as described below.

a) Would the project physically divide an established community?

The project site is located at the corner of Bassett Street and Terraine Street in Downtown San José. The site is vacant and is bounded by a variety of commercial and residential uses. The proposed project would not result in the separation of existing communities from community resources or physical division of a community. Additionally, the project would not include features which would prevent movement of people from one part of the area to another. Therefore, the proposed project would result in no impact from the division of established communities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The Downtown General Plan designation allows for up to 800 dwelling units per acre and an FAR of up to 30.0 for buildings three to 30 stories tall. The proposed project would construct a residential

tower with 345 units and an FAR of approximately 9.8 (including the residential and office building) at a maximum height of 17 stories on top of a podium. As described within the individual sections of this document, implementation of the City's Standard Permit Conditions and the required Downtown Strategy 2040 FEIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. Based on the above, the impact is less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?

The proposed project is located on the corner of Terraine Street and Bassett Street which is located approximately 0.26 miles west-northwest from the nearest major open space area, Saint James Park. Under maximum shade conditions the proposed project would not cast shadows exceeding 1,000 feet from the project site. Additionally, the proposed project is not located directly south, east, or west of the six major open space areas in Downtown and is not required to prepare a project-specific shade and shadow analysis and would result in a less than significant shade and shadow impact on Downtown open space areas. **[Same Impact as Approved Project (Less than Significant Impact)]**

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 in the Downtown San José area which is not known to contain mineral resources or local or state importance. The nearest mineral resources identified in the General Plan are located approximately 3.59 miles south at Communications Hill.[63]

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?	☐	☐	☐	☒	☐

[63] City of San José. Downtown Strategy 2040 FEIR. December 2018. https://www.sanjoseca.gov/Home/ShowDocument?id=44054.

	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:					
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?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on mineral resources, as described below.

a) Would the project physically divide an established community?

The project site is located in the Downtown San José area which is located 3.59 miles north of the nearest identified mineral resources, therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **[Same Impact as Approved Project (No Impact)]**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The project site is located in the Downtown San José area which is located 3.59 miles north of the nearest identified mineral resources, therefore, the project would not 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. **[Same Impact as Approved Project (No Impact)]**

4.13 Noise

The information in this section is based in part on a Noise and Vibration Assessment completed on December 4, 2023 by Illingworth and Rodkin Inc. This report is included as Appendix E of the Addendum for reference.

4.13.1 Environmental Setting

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.[64] 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.

[64] 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}.

4.13.1.1 *Regulatory Framework*

State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

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 L_{dn} 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.

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.12-3 below.

Table 4.13-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care						
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						

Normally Acceptable:

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
	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

Policy	Description
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: o 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. o 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.

Policy	Description
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-1.7	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-1.9	Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
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-2.3	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.

4.13.1.2 *Existing Conditions*

The proposed project is located at the southwest corner of the Bassett Street and Terraine Street Intersection and is bound by SR 87 on the west, Bassett Street on the north, Terraine Street to the east, and an existing office development to the south. There are existing residential uses across

Terraine Street and Bassett Street to the east and north, respectively. Additionally, across SR 87, office buildings are also present.

The noise environment at the site and in the surrounding area results primarily from traffic noise generated by SR 87, which is an elevated roadway adjoining the project site. Local traffic along surrounding roadways and nearby Julian Street and Coleman Avenue, as well as aircraft traffic associated with San José Mineta International Airport, also contribute to the noise environment. As a part of the Noise and Vibration Assessment prepared by Illingworth and Rodkin Inc., the existing noise environment was studied using two long term and three short term noise measurements between July 19, 2023, and July 21, 2023.

Long-term noise measurement LT-1 was made along Terraine Street, approximately 20 feet west of the center of the street and 320 feet from the center of SR 87. Hourly average noise levels at LT-1 typically ranged from 66 to 72 dBA Leq during daytime hours (7:00 a.m. and 10:00 p.m.) and from 55 to 68 dBA Leq during nighttime hours (10:00 p.m. and 7:00 a.m.). The day-night average noise level was 71 dBA DNL.

Long-term noise measurement LT-2 was made along Bassett Street, halfway between the SR 87 structure and Terraine Street, approximately 20 feet south of the center of Bassett Street and approximately 185 feet from the nearest lane along SR 87. Hourly average noise levels at LT-2 typically ranged from 65 to 72 dBA Leq during daytime hours and from 56 to 69 dBA Leq during nighttime hours. The day-night average noise level was 71 dBA DNL.

The noise levels at the short-term measurement locations are summarized below in Table 4.13-2 and the locations of all monitoring locations are included in Figure 4.13-1.

Table 4.13-2 Summary of Short-Term Noise Measurements in dBA

Noise Measurement Location	Date, Time	Height, ft	Lmax	L(1)	L(10)	L(50)	L(90)	Leq
ST-1: western façade of proposed building	7/19/2023, 11:00-11:10	5	78	75	68	66	63	67
ST-1: western façade of proposed building	7/19/2023, 11:00-11:10	24	78	76	73	70	68	71
ST-2: southern façade of proposed building	7/19/2023, 11:20-11:30	5	72	71	67	64	61	65
ST-2: southern façade of proposed building	7/19/2023, 11:20-11:30	24	73	72	70	67	65	68
ST-3: eastern façade of proposed building	7/19/2023, 11:40-11:50	5	73	72	67	64	61	65
ST-3: eastern façade of proposed building	7/19/2023, 11:40-11:50	24	74	72	69	67	65	67

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

NOISE MONITORING LOCATIONS | FIGURE 4.13-1

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?	☐	☐	☐	☐	☒
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?	☐	☐	☐	☒	☐

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project-generated noise level increases of 3.0 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the addition of project noise, a noise level increase of 5.0 dBA DNL or greater is considered significant.

City of San José Standards

The City of San José relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5.0 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.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or 5.0 dBA DNL or more where noise levels would remain normally acceptable.

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

Noise Impacts

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed in accordance with General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would be less than significant, consistent with the Downtown Strategy 2040 FEIR as described below.

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?

Construction Impacts

The proposed project would begin construction in May 2024 and with construction occurring Monday through Saturday, 7:00 am to 7:00 pm. The first phase of construction (residential tower

and parking tower) would be completed by July 2026 (26 months of construction) and the second phase of construction to convert the parking tower into an office use would begin in May 2034. This second construction phase would be completed in approximately August 2035 (15 months of construction). Noise generated by construction of the proposed project would vary depending on the phase of construction and equipment being used on the project site.

Policy EC-1.7 of the General Plan requires that all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project that is 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. To complete work on Saturdays, the City would need to provide permission to the applicant, as those hours would be outside the allowable hours.

Construction noise impacts were assessed at the property lines around the project site including the residential buildings to the north and east sides of the site and the office buildings to the south and west. The noise for each phase of construction was evaluated in the Noise and Vibration Assessment and are summarized in Table 4.13-3 below.

Table 4.13-3 Construction Noise Levels at Adjacent Uses for First Construction Phase

Phase of Construction	Noise Levels at North Residences	Noise Levels at East Residences	Noise Levels at South Future Office	Noise Levels at West Offices
Demolition	67	71	66	62
Shoring/Grading/ Excavation	71	75	70	66
Below Slab Utility	67	71	66	62
Foundation/ Structure	80	84	79	75
Building – Exterior	77	82	77	73
Building – Interior/ Architectural Coating	74	78	73	69
Site Improvements	70	75	69	65

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

The second phase of construction would also result in noise impacts during construction. The north (off-site) residences would be mostly shielded from construction activities during the office conversion because the proposed on-site residential tower would be between the noise source and the existing residences. The noise study applied a 20 dBA attenuation to noise levels for this

receptor to account for this change. Based on this change, the second phase of construction would result in the noise levels in Table 4.13-4 below.

Table 4.13-4 Construction Noise Levels at Adjacent Uses for Second Construction Phase

Phase of Construction	Noise Levels at North Residences	Noise Levels at East Residences	Noise Levels at South Future Office	Noise Levels at West Offices
Demolition	53	81	79	69
Building – Exterior	56	84	82	72
Building – Interior/ Architectural Coating	57	85	82	72
Site Improvements	47	75	73	63

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

As shown above, construction noise levels would typically range from 67 to 84 dBA at the property lines of the nearest residential land uses and from 62 to 79 dBA at the nearest property lines of office buildings during the construction of the residential tower and parking tower. During the conversion of the parking tower into the proposed office building, construction noise levels would typically range from 47 to 85 dBA at the property lines of the nearest off-site residential land uses, from 63 to 82 dBA at the nearest property lines of office buildings, and from 73 to 82 dBA at the nearest façade of the on-site residential building. Further, construction closer to the edges of the project site would intermittently result in noise levels ranging from 80 to 87 dBA.

Considering project construction of the residential tower and parking tower and during the conversion of the parking tower into an office building is expected to last for a period of more than one year, the temporary increase in noise levels would result in a significant impact, according to Policy EC-1.7 of the City's General Plan.

IMPACT NOI – 1 The proposed project would result in construction lasting longer than 12 months near residential land uses and would result in a significant noise impact on these nearby sensitive receptors.

Mitigation Measure

MM NOI – 1.1 Pursuant to this General Plan Policy, a construction noise logistics plan shall be prepared 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. Project construction operations

shall use best available noise suppression devices and techniques including, but not limited to the following:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., 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. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of PBCE that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses outside of standard construction hours and on weekends.
- Construct solid plywood fences to shield sensitive receptors from ground-level/below grade construction activities. A temporary eight-foot noise barrier would provide 7 dBA or more attenuation for surrounding noise-sensitive land uses when construction activities occur at the ground level or below grade.
- If legitimate complaints made by nearby residences to the north or to the east are irresolvable, erect a temporary noise control blanket barrier, where feasible, at the property line or on scaffolding just outside the proposed towers facing the residences during construction of the upper floors. This would control construction noise when activities do not occur at the ground level.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad

muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. 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.

Through implementation of this mitigation measure, the proposed project would reduce the noise generated during both phases of construction by up to seven dBA at all receptors. This would reduce the noise levels below the 80 dBA level of significance for daytime hours.[65] Therefore, the proposed project would have a less than significant construction noise impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operational Impacts

According to Policy EC-1.2 of the City's General Plan, a significant permanent noise increase would occur if the project would substantially increase noise levels at existing sensitive receptors in the project vicinity. A substantial increase would occur if:

- the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL at residences; or
- the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater at residences.

Existing noise levels at sensitive land uses exceed 60 dBA DNL; therefore, a significant impact would occur if traffic or operational noise due to the proposed project would permanently increase ambient levels by three dBA DNL.

Operational impacts of the proposed project include project traffic, mechanical equipment, and truck loading operations.

Phase 1 – Residential Tower and Parking Tower

Project Traffic Increases

The increase in traffic noise resulting from the proposed project was estimated by comparing the existing plus project traffic scenario to the existing traffic scenario. Based on the increase in vehicle trips (approximately 1,659 trips for the residential project) the contribution to the overall noise level increase would be one dBA DNL or less along each roadway segment and intersection in the project vicinity.

[65] Federal Transit Administration, Transit Noise and Vibration Impact Assessment Manual, FTA Report No. 0123, September 2018.
This threshold is based off a standard for substantial noise based on the FTA standards because San José does not have a specific numeric threshold that defines a substantial construction noise impact.

Therefore, the project would not result in a permanent noise increase of three dBA DNL or more at noise-sensitive receptors in the project vicinity.

Mechanical Equipment

The mechanical equipment for the proposed project would be located in the ground level mechanical room at the northwest side of the building (generator), the top floor of the proposed parking tower, and on top of the residential tower (HVAC and water pumping equipment).

Most equipment in the ground level mechanical room would be significantly shielded from existing receptors and would not result in noise exceeding the City of San José noise thresholds. One piece of equipment in this area would be the emergency generator which would require intermittent testing once monthly, for one hour. This testing would result in greater noise than other mechanical equipment in the same area. Noise levels resulting from testing of the emergency generator are shown in Table 4.13-5.

Table 4.13-5 Estimated Noise Levels for the Ground-Level Emergency Generator

Receptor	Distance from Center of Room, feet	Hourly Leq, dBA	DNL, dBA	Noise Level Increase, dBA DNL
North Residences	70	58	45	0
East Residences	230	48	34	0
South Future Office	415	43	29	N/A
West Office	420	43	29	0

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

Based on the estimated noise levels in Table 4.13-5, the emergency generator noise levels would not exceed the City's General Plan threshold of 55 dBA DNL at existing residential receptors to the east. Hourly average noise levels would exceed 55 dBA at the north residences; however, this would not increase the average daily noise levels above 55 decibels and would not adversely affect the northern residences. For all existing receptors, the noise level increase due to mechanical equipment noise would be less than significant.

The parking tower would include mechanical equipment for elevator operation and water pumping installed at the top floor rooftop. The residential tower of the proposed project to the north would result in some noise attenuation and there would be some screening for noise generated by the mechanical equipment based on features of the proposed buildings. The noise expected for all mechanical equipment on the parking tower are summarized in Table 4.13-6 below.

Table 4.13-6 Noise Levels for the Mechanical Equipment for the Proposed Parking Garage

Receptor	Distance from Center of Equipment, feet	Hourly Leq, dBA	DNL, dBA	Noise Level Increase, dBA DNL
East Residences	160	55	62	1
South Future Office	155	65	71	N/A
West Office	495	46	52	0

Source: Illingworth and Rodkin Inc. Noise and Vibration Assessment. December 4, 2023.

Based on the estimated noise levels in Tables 4.13-6, noise levels produced by the tenth-floor mechanical equipment would exceed the City's General Plan threshold of 55 dBA DNL at the east residences.

For all existing receptors, the noise level increase due to the tenth-floor mechanical equipment noise would be one dBA DNL or less. This would not be an additional increase from the one dBA DNL increase calculated for the first phase of development. Therefore, the initial project would result in a total noise level increase of one dBA DNL over existing ambient conditions.

The mechanical equipment for heating and cooling of the residential tower would be located on the rooftop of the building. Based on the types of equipment proposed and attenuation from the elevation of the building, the proposed heating and cooling equipment would not exceed the City's General Plan or Municipal Code thresholds at the surrounding receptors. For all existing receptors, the noise level increase due to residential rooftop mechanical equipment noise would be less than significant.

Truck Loading and Unloading

Loading areas for the proposed project would be located on the ground level of the podium for both towers. All noise generated by truck loading and unloading activities would be shielded from the surrounding receptors by the walls of the loading area. Noise levels generated by loading and unloading activities would meet the City's thresholds at the receiving property lines. For all existing land uses adjacent to the project site, the noise level increase due to truck loading and unloading noise would be less than significant.

Total Combined Operational Noise Impacts

The operational noise levels produced by the proposed project combined (i.e., traffic, mechanical equipment, and truck loading/unloading activities) would result in an increase of one dBA DNL or less at all existing noise-sensitive receptors surrounding the project site. Therefore, the proposed project would not result in a substantial increase over existing ambient noise levels in the project vicinity. Operational noise levels produced by the emergency generator and produced at the tenth floor of the future office building would potentially exceed 55 dBA DNL at the nearest residential

receptors. Therefore, while overall ambient noise levels would not significantly increase, the proposed project would result in a significant operational noise impact.

The following Condition of Approval will be required by the City of San José to reduce noise impacts resulting from project operations.

Condition of Approval

The final design plans for project mechanical equipment will be reviewed by a qualified acoustical consultant to address any potential conflicts with the General Plan or Municipal Code. The condition states the following:

- A detailed acoustical study shall be prepared during final building design 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 at receiving residential property lines and to meet the reasonable design goal of 70 dBA DNL at the property line of the adjoining office use. Reducing mechanical equipment noise by up to 14 dBA to meet the City's 60 dBA DNL standard would not be reasonably achievable; however, a design goal of 70 dBA DNL, which is based on the ambient noise levels at sites adjoining SR 87 being 71 dBA DNL, would be a reasonable performance standard. 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 receiving residential property lines surrounding the project site or 70 dBA DNL at receiving office/commercial property lines surrounding the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit.

Through implementation of the above Condition of Approval the proposed project would result in noise levels below the City's residential noise thresholds. Therefore, the proposed project would have a less than significant impact associated with operational noise.

Phase 2 – Conversion of Parking Tower to Office Tower

The residential component of the proposed project constructed in Phase 1 would remain unchanged during Phase 2 of the project, therefore, the operational noise environment resulting from that development would remain unchanged.

Project Traffic Increases

Based on the increase in vehicle trips from conversion of the parking tower to an office tower (3,988 trips for the final build out), the total contribution of the office conversion phase determined to be one dBA DNL or less along each roadway segment in the project vicinity.

Therefore, the project would not result in a permanent noise increase of three dBA DNL or more at noise-sensitive receptors in the project vicinity.

Mechanical Equipment

During the second phase of the project, the parking tower would be converted for future office use, which would include HVAC equipment for heating and cooling the building. The noise generated by the mechanical equipment on the office tower is summarized in Table 4.13-7 below.

Table 4.13-7 Noise Levels for the Mechanical Equipment for the Future Office Building

Receptor	Distance from Center of Equipment, feet	Hourly Leq, dBA	DNL, dBA	Noise Level Increase, dBA DNL
East Residences	160	58	65	1
South Future Office	155	68	74	N/A
West Office	495	49	55	0

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

Based on the estimated noise levels in Table 4.13-7, noise levels produced by the tenth-floor mechanical equipment would exceed the City's General Plan threshold of 55 dBA DNL at the east residences. Additionally, the Municipal Code threshold of 60 dBA DNL would be exceeded at future office receptors to the south of the site.

For all existing receptors, the noise level increase due to tenth-floor mechanical equipment noise would be one dBA DNL or less. Note, the increase calculated under the office building conversion (shown in Table 4.13-7) is compared to the existing ambient conditions. This would not be an additional increase from the one dBA DNL increase calculated for the first phase of development. Therefore, the initial project and the total project build out would result in a total noise level increase of one dBA DNL over existing ambient conditions.

Total Combined Operational Noise Impacts

The operational noise levels produced by the proposed project combined (i.e., traffic, mechanical equipment, and truck loading/unloading activities) would result in an increase of one dBA DNL or less at all existing noise-sensitive receptors surrounding the project site. Therefore, the proposed project would not result in a substantial increase over existing ambient noise levels in the project vicinity. Operational noise levels produced by the emergency generator and produced at the tenth floor of the future office building would potentially exceed 55 dBA DNL at the nearest residential receptors. Therefore, while overall ambient noise levels would not significantly increase, the proposed project would result in a significant operational noise impact.

The proposed project would implement the following Condition of Approval required by the City of San José to reduce noise impacts resulting from project operations.

Condition of Approval

- The proposed project would include the Condition of Approval from the first phase of the project for operational noise during the second phase to reduce impacts from mechanical equipment.

Through implementation of the above Standard Permit Conditions the proposed project would result in noise levels below the City's residential noise thresholds. Therefore, the proposed project would have a less than significant impact associated with operational noise. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

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

Construction Vibration

Policy EC-2.3 of the 2040 General Plan establishes a vibration limit of 0.08 inch/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 inch/sec PPV to minimize damage at buildings of normal conventional construction. Since the time the 2040 General Plan was adopted in 2011, the California Department of Transportation published a Transportation and Construction Guidance Manual in 2013. The Manual developed a synthesis of various vibration criteria to assess the damage potential for representative categories of structures and effects upon people.

According to the City's Historic Resource Inventory, the nearest historical structure is located at 181 Devine Street, which is approximately 235 feet southeast of the project site. At this distance, construction vibration levels would be below 0.02 in/sec PPV. Therefore, project construction would have no impact on the nearest historical structure. Historical buildings are not discussed further in this impact discussion.

Based on the distances of the buildings surrounding the project site and expected equipment to be used on site, the proposed project would result in vibratory impacts displayed below in Table 4.13-8.

Table 4.13-8 Vibration Levels (in PPV in/sec) at the Structures Surrounding the Project Site

Equipment	North Residences (55ft)	East Residences (55ft)	South Office (355ft)	West Offices (360ft)
Clam shovel drop	0.085	0.085	0.011	0.011
Hydromill (slurry wall) in soil	0.003	0.003	0.000	0.000
Hydromill (slurry wall) in rock	0.007	0.007	0.001	0.001
Vibratory Roller	0.088	0.088	0.011	0.011

Hoe Ram	0.037	0.037	0.005	0.005
Large bulldozer	0.037	0.037	0.005	0.005
Caisson drilling	0.037	0.037	0.005	0.005
Loaded trucks	0.032	0.032	0.004	0.004
Jackhammer	0.015	0.015	0.002	0.002
Small bulldozer	0.001	0.001	0.000	0.000

Source: Illingworth and Rodkin Inc. Terraine Site Mixed-Use Project Noise and Vibration Assessment. December 4, 2023.

Based on these estimates, project construction activities would generate vibration levels below 0.2 in/sec PPV at the nearest buildings surrounding the site, and would not result in cosmetic, minor, or major damage, as described above.

Therefore, the proposed project would not result in vibratory impacts above 0.2 in/sec PPV and would have a less than significant vibratory impact on surrounding buildings. **[Less Impact than Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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 San José Mineta International Airport is located approximately 1.2 miles northwest of the project site. Based on the Airport Master plan, the proposed project would be within the 60 dBA contour and outside the 65 dBA noise contour. According to General Plan Policy EC-1.11, noise levels above 65 dBA would not be compatible with outdoor living areas. Therefore, because the proposed project would expose residents to aircraft noise below 65 dBA, the proposed project would result in a less than significant noise impact for exterior uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.13.2.1 *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 conditions affecting a proposed project.

Construction Impacts

During construction of the second phase of the proposed project, the residents in the residential tower would be exposed to noise and vibration associated with conversion of the parking tower to office use.

Based on the distance of the parking/office tower from the proposed residential tower, the residents would experience noise levels ranging from 73 to 82 dBA. These levels would exceed the City of San José noise thresholds for construction. As stated above, the proposed project would implement Standard Permit Conditions to prepare a construction noise mitigation plan and limit aspects of construction which results in a reduction in noise below the 80 dBA threshold. Therefore, the proposed project would not result in impacts to new project residents during construction.

Additionally, construction during the conversion of the parking garage into an office building would generate vibration levels up 0.088 in/sec PPV at the future on-site residential building, which would be about 55 feet from the future office building. This would not result in cosmetic, minor, or major damage. Therefore, the proposed project would not result in vibratory impacts on new buildings on the site.

Operational Impacts

The future noise environment at the site would continue to result predominately from traffic along SR 85 and local roadways, and airport operations. The cumulative plus project traffic volumes along the local roadways to the existing traffic volumes resulted in less than a one dBA DNL increase under future conditions. According to the Envision San José 2040 General Plan, the traffic noise level increase at the project site based on future volumes along SR 87 would be up to one dBA DNL, and the future noise levels at a distance of 75 feet from the center of the nearest travel lane along SR 87 would be 75 dBA DNL. Assuming worst-case conditions, a future noise level increase at the project site would be one dBA DNL.

Future Exterior Noise Environment

The proposed project includes an amenity terrace on the second level that would connect the residential tower and parking tower/future office tower. The residential tower would also include private balconies at each unit, which are not subject to the City's exterior noise thresholds. Additionally, the future office tower would include three balconies on each floor (in the northeastern corner, in the southeastern corner, and along the western façade) and a rooftop common area.

The publicly available portion of the courtyard in the proposed project would include an amphitheater and a gathering area. The amphitheater would be mostly at the same elevation as the residential podium-level courtyard uses; however, the gathering area would be at a lower elevation and would be shielded from SR 87. The center of the amphitheater would be approximately 230 feet from the center of the nearest travel lane of SR 87, and the center of the gathering area would be approximately 275 feet from the centerline of the nearest through lane of SR 87. At these distances, and assuming a minimum 10 dBA attenuation for the outdoor area, future exterior noise levels at the amphitheater and outdoor areas would be 68 and 57 dBA DNL, respectively. This would meet the City's thresholds of 70 and 65 dBA DNL, for exterior office and public open spaces respectively, and would not require additional noise reduction measures.

Flyover traffic from the nearby airport would result in noise levels up to 78 dBA for short periods of time based on existing noise sampling conducted as a part of the noise assessment. However, this would only be during short term exposure and the noise of flyovers are included in the average outdoor noise levels described above.

The future office tower would include common use outdoor balconies along the western façade, facing SR 87, on each floor. The center of these balconies would be set back approximately 175 feet from the center of the nearest travel lane of SR 87. At this distance, the balconies would be exposed to future exterior noise levels ranging from 67 to 70 dBA DNL, one dBA DNL attenuation would occur due to elevation over the noise source every two floors. This would meet the City's 70 dBA DNL threshold for office uses.

The balconies located on each floor in the northeastern and southeastern corners of the office building would have direct line-of-sight to Terraine Street, with the centers set back approximately 40 feet. These balconies would also have some exposure to SR 87, with minimum setbacks of 280 feet from the centerline of the nearest through lane. At these distances, future exterior noise levels would range from 63 to 66 dBA DNL, one dBA DNL attenuation would occur due to elevation over the noise source every two floors. This would meet the City's 70 dBA DNL threshold for office uses.

The podium-level courtyard connecting the two towers is intended for both private and public use. The private use portion would include the tenant pool area, amenity terrace, and barbeque terrace, which would be closer to the residential tower. This outdoor space would be approximately 205 feet from the center of the nearest travel lane along SR 87. Due to the elevation of both the expressway and the podium-level outdoor area, this space would have direct line-of-sight to the traffic noise. At this distance and assuming no attenuation, the future exterior noise level at the center of the residential courtyard would be up to 69 dBA DNL. This would exceed the City's exterior noise level threshold by nine dBA DNL. This would require measures to reduce exterior noise levels to meet the City's thresholds.

Condition of Approval

According to the plans, a barrier and/or fence would be constructed along the edge of the courtyard area. The total length of the proposed barrier would be approximately 210 feet. The proposed barrier would be continuous from grade to top, with no cracks or gaps, and have a minimum surface density of three pounds per square foot (e.g., one-inch-thick marine-grade plywood, half-inch laminated glass, concrete masonry units (CMU)). To reduce future exterior noise levels by at least nine dBA, a minimum barrier height of 10 feet would be required for reducing noise levels to 60 dBA DNL or less. The barrier height shall be measured relative to the elevation of the podium-level.

Final design recommendations shall be made when building designs have been finalized. An acoustical consultant shall be retained to review the final site plan and provide recommendations to reduce future exterior noise levels.

Through inclusion of this Condition of Approval, the future noise environment for this exterior area would be reduced below City of San José thresholds.

Future Interior Noise Environment

Standard construction for residential buildings results in a 15 dBA reduction of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. With the windows closed there would be approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required to reduce noise levels for interior uses.

The residential tower would include residential units on floors two through 17 and the units located along the western façade would have direct exposure to traffic noise from SR 87. Based on the distance from SR 87 to the units located along the western building façade, the future exterior noise levels would be up to 75 dBA DNL. Assuming windows to be partially open for ventilation, future interior noise levels would be up to 60 dBA DNL at the residential interiors.

Units located along the northern and southern façades would also have some exposure to SR 87, and they would be exposed to future exterior noise levels ranging from 66 to 75 dBA DNL. Assuming windows to be partially open for ventilation, future interior noise levels would range from 51 to 60 dBA DNL at the residential interiors.

While units located along the eastern façade would be shielded from SR 87, they would have direct exposure to traffic noise along Terraine Street. These units along the eastern façade would be exposed to future exterior noise levels up to 75 dBA DNL. Assuming windows to be partially open for ventilation, future interior noise levels would be up to 60 dBA DNL at the residential interiors.

Based on standard height attenuation the noise levels on the second through 17th floor would be reduced by one dBA DNL every two floors. To meet the interior noise requirements set forth by the City of San José of 45 dBA DNL, implementation of noise insulation features would be required.

Ground-level commercial retail uses are proposed, in addition to future office uses in the parking tower. The ground-level retail would front Terraine Street and Bassett Street along the eastern building façade, and offices along the eastern façade would be located on floors two through nine. Based on the distance from the highway and roadways, the future daytime hourly average noise levels during operational hours at the ground-level commercial uses and the podium-level offices would range from 65 to 71 dBA Leq, with future day-night average noise levels up to 69 dBA DNL.

The offices along the western building façade would be set back approximately 170 to 175 feet from the centerline of the nearest through lane of SR 87. Future daytime hourly average noise levels during operational hours at the podium-level office uses would range from 66 to 73 dBA Leq, with future day-night average noise levels up to 73 dBA DNL. Offices on the upper floors would be exposed to reduced noise levels, with noise levels decreasing by about one dBA DNL every two floors.

Standard construction materials for commercial and office uses would provide about 25 dBA of noise reduction in interior spaces. Additionally, the inclusion of adequate forced-air mechanical ventilation systems is normally required in these uses and this would provide an additional five dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA.

Condition of Approval

The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units and to 50 dBA or lower within commercial interiors. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels to 45 dBA DNL or less at residential interiors:

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units at the project site so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- Preliminary calculations indicate that residential units located along the western façade would require windows and doors with a minimum rating of 38 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- Preliminary calculations indicate that residential units located along the eastern façade would require windows and doors with a minimum rating of 31 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

The implementation of these noise insulation features would reduce interior noise levels to 45 dBA DNL or less at residential uses consistent with Policy EC-1.1.

4.14 Population and Housing

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

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.[66] The City of San José Housing Element and related land use policies were last updated in 2015 and the 2022 update is currently undergoing review with the California Department of Housing and Community Development.

Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified Priority Development Areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[67]

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

[66] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed June 2023. http://hcd.ca.gov/community-development/housing-element/index.shtml.

[67] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 959,256 in January 2023 with an average of 2.86 persons per household.[68] The projections produced by ABAG predict the number of households in Santa Clara County would increase to 1,075,000 by 2050, which would be equivalent to a population of 3,074,500.[69] The City currently has approximately 335,887 housing units.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. According to the Downtown Strategy 2040 FEIR, the current ratio of jobs to employed residents in San José is estimated to be 0.8, making the city "housing rich".

The project site is vacant and does not contribute to the population or housing stock of the City.

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?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, future development would make a substantial contribution to the significant unavoidable impact related to the citywide jobs/housing imbalance. The proposed project, by itself, would result in less than significant population and housing impacts, as described below.

a) Would the project induce substantial unplanned population growth in an area, either

[68] State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2023. Sacramento, California, June 2023.
[69] Plan Bay Area 2050. Growth Pattern: Projected Household and Job Growth, By County. January 21, 2021.

directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project would construct a residential tower with 345 dwelling units which would result in an increase of approximately 990 new residents.[70] The proposed project is part of planned growth in the Downtown area. While the project would increase housing and eventual office space within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is currently undeveloped and does not contain any residential units. The proposed project would not result in the displacement of any residents and would contribute to the total housing available in the City of San José. Therefore, the proposed project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **[Same Impact as Approved Project (Less than Significant Impact)]**

[70] 2.86 residents per unit x 345 units = 990 residents
State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2023. Sacramento, California, June 2023.

4.15 Public Services

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

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 facilities and services and are applicable to the project.

General Plan Policies - Public Facilities and Services

Policy	Description
ES-1.9	Provide all pertinent information on 2040 General Plan amendments, rezonings and other development proposals to all affected school districts in a timely manner.
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
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 fire facilities and delivery of services keeps pace with development and growth of the city.
ES-3.4	Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
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.

Policy	Description
ES-3.13	Maintain emergency traffic preemption controls for traffic signals.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.
ES-3.15	Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.
ES-3.18	Maintain a program consistent with requirements of State law to inspect buildings not under authority of the Office of the State Fire Marshall.
ES-3.20	Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station 1, located at 225 North Market Street, which is approximately 0.11 miles southwest of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 0.77 miles northwest of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The nearest public schools to the project site are Grant Elementary, located at 470 East Jackson Street (approximately 0.93 miles northwest of the site), Hoover Middle School, located at 1635 Park Avenue (approximately 1.48 miles southwest of the site), and Lincoln High School, located at 555 Dana Avenue (approximately 1.59 miles southwest of the site).

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,621 acres of regional and neighborhood/community-serving parkland, including approximately 202 neighborhood-serving parks and ten regional parks.[71] The nearest parks to the project site are Pellier Park (located approximately 500 feet south of the project site), Saint James Park (located 1,354 feet southeast of the project site), and Plaza de Cesar Chavez (located approximately 3,000 feet south of the project site).

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 25 branch libraries. The nearest library is Dr. Martin Luther King Jr., approximately 3,500 feet southeast 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?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

[71] City of San José. ACTIVATESJ. Accessed June 15, 2023. https://www.sanjoseca.gov/your-government/departments-offices/parks-recreation-neighborhood-services/general-information/activatesj.

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 project would construct a 17-story tower that would add approximately 345 residential units. The proposed parking tower would also be converted in the future to accommodate approximately 210,328 square feet of office space to the project site. The proposed development would increase calls for fire protection service on-site. New buildings, including the proposed project, are required to be constructed in accordance with current fire and building codes. According to the Downtown Strategy 2040 FEIR, development allowed under the General Plan would not require the construction of new fire stations, other than those currently planned. The development proposed in the residential and office components of the proposed project are included within the development capacity assumed in the Downtown Strategy 2040 EIR and subsequent addendums. Additionally, the proposed project would have emergency access via the residential building lobby from Bassett Street, Terraine Street via a park, and via a lobby on Terraine Street for the garage building/ office tower. Therefore, because the project is part of the planned growth in the Downtown area, it would not result in a substantial adverse physical impact associated with the need for additional fire protection services or facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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?

Full build out of the Downtown Strategy 2040 FEIR would increase the demand for police protection services due to increased housing and population density in the downtown area. The project, by itself, would not require additional police services or facilities since it would be constructed in accordance with current building codes for safety and lighting to discourage crime, and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. The project would be consistent with full build out of the Downtown Strategy 2040 plan and would not prevent the SJPD from meeting their service goals or require the construction of new or expanded police facilities. **[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 project would generate additional K-12 students due to the increase in housing units on-site. Planned growth under the General Plan would generate an additional 11,079 students in the San José Unified School District (SJUSD). Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.133 elementary students, 0.071 middle school students, and 0. 062 high school students per unit.[72] As a result, it is estimated that the project would generate a total of 46 elementary students, 25 middle school students, and 22 high school students. The addition of up to 93 students in the SJUSD would comprise less than one percent of the total student population proposed in the planned growth of the General Plan.

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

With payment of the school impact fees, the proposed project would have a less than significant impact on school services and would not, by itself, require new school facilities to be constructed. **[Same Impact as Approved Project (Less than Significant Impact)]**

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 of San José has a Parkland Dedication (PDO) and Park Impact Ordinances (PIO) which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The proposed project would increase the City population by approximately 990 new residents. The project would include a pool area, a landscaped central parkette, BBQ terrace, amphitheater, and assorted meeting areas. The landscape areas and amenities on the second level of the proposed project are for on-site resident use only. The park on Terraine Street between the residential and garage towers would be accessible to the public and would include paved walkways, seating, plantings, and a meadow which would serve as a gathering area. In addition to the recreational facilities proposed on-site, the project applicant would be required to pay the applicable PDO and PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements

[72] City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

(such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

Since the proposed project would be required to comply with payment of the PDO/PIO fees, implementation of the project would not result in significant impacts to park and recreational facilities in San José. **[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?

Library Facilities

The City of San José has been expanding and constructing new library facilities over the last decade to meet the needs of current residents. The General Plan policies maintain the City's current policy of providing at least 0.59 square feet of library space per capita. Development and redevelopment allowed under the General Plan would increase the City's residential population to 1,313,811. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The Downtown Strategy 2040 FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The proposed increase in residents at the project site was analyzed as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 Recreation

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

Activate SJ Strategic Plan

The Activate SJ Strategic Plan was developed by the City of San José as an update to the Greenprint 2009 Plan. The Plan serves as an outline of goals and policies of the City's Department of Parks, Recreation, and Neighborhood Services, and is intended to act as a 20-year strategic plan in alignment with the Envision San José 2040 General Plan. The Activate SJ Strategic Plan will be updated at five-year intervals. The Plan identifies five major guiding principles, Stewardship, Nature, Equity & Access, Identity, and Public Life, to achieve the City's goal of connecting people through parks, recreation, and neighborhood services.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

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 recreation and are applicable to the project.

General Plan Policies - Recreation

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.
PR-7.2	Condition land development and/or purchase property along designated Trails and Pathways Corridors in order to provide sufficient trail right-of-way and to ensure that new development adjacent to the trail and pathways corridors does not compromise safe trail access nor detract from the scenic and aesthetic qualities of the corridor. Locate trail rights-of-way consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).
PR-8.5	Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location. Use the City's Parkland Dedication Ordinance and Park Impact Ordinance to have residential developers build trails when new residential development occurs adjacent to a designated trail location, consistent with other parkland priorities. Encourage developers or property owners to enter into formal agreements with the City to maintain trails adjacent to their properties.
PR-8.7	Actively collaborate with school districts, utilities, and other public agencies to provide for appropriate recreation uses of their respective properties and rights-of-ways. Consideration should be given to cooperative efforts between these entities and the City to develop parks, pedestrian and bicycle trails, sports fields and recreation facilities.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,621 acres of regional and neighborhood/community-serving parkland, including approximately 202 neighborhood-serving parks and nine regional parks.[73] The nearest parks to the project site are Pellier Park (located approximately 500 feet south of the project site), Saint James Park (located 1,354 feet southeast of the project site) and Plaza de Cesar Chavez (located approximately 3,000 feet south of the project site).

The nearest community center is the Rotary Ryland Pool, located approximately 900 feet northeast of the project site at 421 North First Street. The project site does not currently contain recreational facilities.

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?	☐	☐	☐	☒	☐

Similar to the development evaluated 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 proposed project would add approximately 990 new people to the project site which would increase the use of parks and community centers in the surrounding area. The project would include indoor and outdoor recreational facilities on-site (passive and active) which may include a pool area, a landscaped central parkette, BBQ terrace, amphitheater, and assorted meeting areas.

[73] City of San José. ACTIVATESJ. Annual Report on City Services FY 2022-23. Accessed January 25, 2024. https://www.sanjoseca.gov/home/showpublisheddocument/107904/638411671291470000.

The landscape areas and amenities on the second level of the project would be for on-site resident use only. The park on Terraine Street between the residential and garage towers would be accessible to the public and would include paved walkways, seating, plantings, and a meadow which would serve as a gathering area. These facilities would help offset the use of existing recreational facilities in the area by future residents of the site.

The project would be required (as a Condition of Approval) to pay the applicable PDO/PIO fees. The City's PDO would be satisfied through a combination of several means including: dedication of land; payment of a fee (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities. Therefore, the project would not result in a substantial physical deterioration of recreational facilities in the area. **[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?

The project does not include the expansion or construction of additional recreational facilities. In addition, due to the proposed facilities on-site and the payment of PDO fees, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals. As a result, implementation of the project would not result in an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 Transportation

The information in this section is based in part on a Local Transportation Analysis, completed in January 26, 2024 by Hexagon Transportation Consultants Inc. This report is included as Appendix F of the Addendum for reference.

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, 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 2050 in October 2021, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2050.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 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

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2020), the City of San José uses vehicle miles traveled (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 employee VMT or at least 15 percent below the existing average Citywide 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 employee 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 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.

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

Policy	Description
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.

Policy	Description
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

	Commute Trips to and From San José	
Mode	**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 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-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the

Policy	Description
	transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
TR-7.1	Require large employers to develop and maintain TDM programs to reduce the vehicle trips generated by their employees.
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
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-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
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.

4.17.1.2 *Existing Conditions*

Existing Roadway Network

Regional access to the project site is provided by SR 87 freeway. Local site access is provided by Julian Street, St. James Street, Almaden Boulevard, Notre Dame Avenue, Market Street/Coleman Avenue, Terraine Street, and Bassett Street. Regional and local access is described below:

SR 87 is primarily a six-lane freeway which provides for regional north-south travel within the project vicinity. SR 87 begins at its interchange with SR 85 and extends north where it connects with US 101. SR 87 is accessible from the project site at an interchange with Julian Street.

Julian Street is an east-west roadway with two non-connected segments. A full interchange with SR 87 is located between Almaden Boulevard and Notre Dame Avenue. Direct access to the project site would be provided by a two-way driveway on the western portion of the Terraine Street/Julian Street intersection.

St. James Street is an east-west two-lane roadway that runs south of the project site. It extends from Notre Dame Avenue, east to 19th Street. West of Notre Dame Avenue, St. James Street transitions to Julian Street at its interchange with SR 87. Between Market Street and Fourth Street, St. James Street provides eastbound-only travel. Access to the project site is provided via its intersection with Terraine Street.

Almaden Boulevard is a north-south roadway consisting of two non-contiguous segments. The northerly segment consists of a one-lane southbound-only local roadway that runs between Julian Street and St. John Street. The southerly segment consists of a two-lane roadway that begins at its

intersection with St. John Street and continues south to Santa Clara Street, where it transitions to a four-lane roadway south to Grant Street. Access to the project site is provided via Julian Street, Notre Dame Avenue, St. James Street, and Terraine Street.

Notre Dame Avenue is a two-lane northbound-only roadway. It extends from Santa Clara Street, north to Julian Street/St. James Street where it transitions to a northbound on-ramp onto SR-87 at the Julian Street interchange. Access to the project site is provided via St. James Street and Terraine Street.

Market Street/Coleman Avenue is a north-south four-lane roadway that runs east of the project site. Coleman Avenue begins at its intersection with Julian Street and continues north to an interchange with I-880 before entering the City of Santa Clara. Market Street begins at its intersection with Julian Street and continues south to its intersection with Reed Street and First Street. Access to the project site is provided via Julian Street (easterly segment).

Terraine Street is a north-south two-lane roadway that runs along the eastern project frontage. It extends from Bassett Street, south to St. John Street where it transitions to Almaden Avenue. Direct access to the project site would be provided via a two-way driveway that forms the west leg of the Terraine Street/Julian Street (easterly segment) intersection.

Bassett Street is an east-west two-lane local roadway that runs along the northern project frontage. It extends from Second Street, west to a dead-end west of SR 87. Bassett Street would provide direct access to an on-site loading dock. Access to the project site parking garage would be provided via its intersection with Terraine Street.

Existing Bicycle Facilities

There are several bicycle facilities in the vicinity of the project site. Bicycle facilities are divided into the following three classes of relative significance:

Class II Bikeway (Bike Lane)

Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Striped bike lanes are present on the following roadway segments near the project site.

- St. John Street, between First Street and Fourth Street
- Second Street, between Taylor Street and Julian Street; between William Street and Keyes Street
- Third Street, between Jackson Street and Julian Street
- Fourth Street, between Hedding Street and Santa Clara Street; between San Salvador Street and Reed Street
- Empire Street, between First Street and 22nd Street
- Coleman Avenue, between Santa Teresa Street and Taylor Street

- Autumn Parkway, along its entire extent
- Almaden Boulevard, between St. John Street and Woz Way
- Notre Dame Avenue, along its entire extent
- Santa Clara Street, between Notre Dame Avenue and Stockton Avenue

Class III Bikeway (Bike Route)

Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. The following roadway segments are designated as bike routes near the project site.

- St. John Street, between Fourth Street and Seventeenth Street; west of First Street
- First Street, between San Salvador Street and St. John Street
- Second Street, between San Carlos Street and St. John Street
- Hawthorne Way, between San Pedro Street and First Street
- San Pedro Street, between Hedding Street and Ryland Street
- Ryland Street, along its entire extent
- Santa Teresa Street, along its entire extent

Class IV Bikeway (Protected Bike Lane)

Class IV bicycle facilities are currently being installed throughout the Downtown Area and adjacent roadways. Protected bike lanes are constructed or are currently being constructed along the following roadways:

- San Fernando Street, between Cahill Street and Tenth Street
- Third Street, between Julian Street and Reed Street
- Fourth Street, between Santa Clara Street and San Salvador Street
- Barack Obama Boulevard, between St. John Street and Santa Clara Street

In addition, the Guadalupe River Park Trail provides a protected bike path along the Guadalupe River for 11 miles from Curtner Avenue to Alviso. Near the project site, the trail can be accessed from Julian Street.

Pedestrian Facilities

The pedestrian facilities near the project site include the sidewalks on surrounding streets and the Guadalupe River Park Trail located approximately 0.3 miles west of the project site. The crosswalks surrounding the project are Americans with Disability Act (ADA) compliant and all signalized intersections near the project site have crosswalks with pedestrian crossing signals. The existing sidewalks and pedestrian facilities provide a complete matrix of connected pedestrian routes to surrounding destinations.

Transit Services

Existing transit services in the study area are provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak. The project site is located approximately one mile from the Diridon Transit Center located on Cahill Street. Connections between local and regional bus routes, light rail train (LRT) lines, and commuter rail lines are provided within the Diridon Transit Center.

Bus services near the project site include Rapid Routes 500, 522, and 568, which run along Santa Clara Street, and Rapid Route 523, which runs along San Carlos Street. These routes provide limited stop services at frequent 15-minute intervals during the daytime. The closest two bus lines are Frequent Route 72 and Frequent Route 73, with a stop at First Street and Bassett Street.

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?	☐	☐	☐	☒	☐

Similar to the development 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?

Roadway Circulation

The Local Transportation Analysis prepared for the proposed project analyzed the operations of local roadways around the project site. The proposed project would be consistent with the Downtown Strategy Land Use plan which determined that projects consistent with the plan would

have a less than significant impact on transportation in the Downtown area. Therefore, the proposed project would not conflict with the plans, ordinances, or policies controlling circulation in the Downtown area.

Pedestrian and Bicycle Facilities

The existing pedestrian facilities provide good connectivity to surrounding areas and would not be affected by the proposed project. Existing pedestrian facilities along the frontage of the proposed project on Terraine and Bassett Street provide connectivity to other areas of Downtown San José. Sidewalks would continue to be provided on streets surrounding the project, and crosswalks would be available at all signalized intersections. Additionally, the proposed project would be required to implement the following Condition of Approval to improve the pedestrian infrastructure.

Condition of Approval

The project will be required to narrow Terraine Street along the project frontage from 40 feet to 36 feet wide curb-to-curb. This improvement will support greater bicycle and pedestrian usage by providing more space for multimodal travel activity.

As stated above, there are a variety of bike facilities traveling in all directions near the project site. The proposed project would not result in impacts on existing bicycle routes near the project site and would provide parking and destinations for bicycles. Additionally, the proposed project is within walking distance from the existing Bay Wheels bike share station near the intersection of Devine Street and San Pedro Street which would promote the use of bicycle facilities in the City, consistent with City policies. Therefore, the proposed project would result in less than significant impacts on pedestrian and bicycle facilities and would not result in conflict with a program, plan, ordinance, or policy.

Transit

The proposed project is within walking distance of the St. James LRT Station. This transit station has service that connects the project site to Diridon Station, which provides connections to Caltrain, ACE, and Amtrak. The proposed project improvements would not interfere with these transit facilities and the transit facilities would support the proposed project's ability to meet the mode share targets as outlined in the General Plan. The nearest bus service operates at First Street and Bassett Street and these facilities would support project operations. Therefore, the proposed project would result in a less than significant impact on transit services and would not result in conflict with a program, plan, ordinance, or policy. **[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)?

The proposed project is located within the Downtown area which does not exceed the residential VMT per capita or VMT per job (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). The Downtown Strategy 2040 FEIR concluded that full build out of the Downtown Strategy 2040 Plan would result in low VMT and would have the lowest VMT of any plan area in the City. The proposed project is located within the Downtown area covered by the Downtown Strategy 2040 FEIR and therefore would have a less than significant VMT impact. The project site is approximately one mile from the Diridon Transit Center and approximately 0.5 miles from the St. James LRT Station.

For these reasons, the project would not result in a significant VMT impact and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[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)?

The proposed project would introduce a mixed-use building into the Downtown San José area which is a use that is consistent with the character of the area. The proposed project would create standard commuter car trips, pedestrian trips, bicycle trips, and truck trips which would all be expected in the Downtown area. Therefore, the proposed project would not create incompatible uses on roads around the project site.

Additionally, the proposed project would not require substantial changes to circulation of vehicles which may result in hazardous geometric design features. The proposed project would be accessible by an existing driveway located on Terraine Street near the intersection of Julian Street and Terrain Street which would be used for access to parking under the building. Additionally, there would be an off-street loading zone, accessible by a proposed new driveway off Bassett Street along the north project frontage. The access to the proposed project site would not have obstructions and would provide proper sight distance of oncoming traffic compliant with San José City regulations. Therefore, the proposed project would not introduce increased hazards from new geometric design features or incompatible uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project result in inadequate emergency access?

The proposed project would develop a vacant site in Downtown San José which is currently accessible and included in the City of San José Emergency Operations Plan. The proposed project would not result in changes to surrounding circulation systems or established evacuation routes. The proposed project would comply with municipal code ordinances and General Plan goals and policies regulating emergency access and evacuation routes. Additionally, the emergency service providers in the City would provide review and comment regarding emergency access during project design to confirm compliance with these policies. Therefore, the proposed project would have a less than significant impact on emergency access. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.18 Tribal Cultural Resources

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

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*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the Downtown area, particularly near the Guadalupe River, located approximately 0.17 miles west of the project site.

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.	☐	☐	☐	☒	☐

Similar to 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)?

Guadalupe River is located approximately 0.2 miles west of the project site, which is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No

other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts 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. In 2017, the City had sent a letter to tribal representatives in the area to participate in the consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the Downtown area of the City of San José. Consultation for projects within the Downtown Strategy 2040 Plan Area was completed as part of the Downtown Strategy 2040 EIR process and measures were included in the Downtown Strategy 2040 EIR based on that consultation. No further consultation was required for the proposed project.

Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR and mitigation measures MM CUL-1.1 and MM CUL-1.2. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

a) 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?

As discussed above, there is a potential to encounter tribal cultural resources on-site. The project would implement MM CUL-1.1 and MM CUL-1.2 included in Section 4.5 above. As a result, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resources that is determined by the lead agency (i.e., the City of San José), 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. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 Utilities and Service Systems

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. The City of San José adopted its most recent UWMP in November 2020.

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.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

Senate Bill 610

SB 610 amended state law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires preparation of a WSA containing detailed information regarding water availability to be provided to

the decision-makers prior to approval of specified large development projects that also require a General Plan Amendment. This WSA must be included in the administrative record that serves as the evidentiary basis for an approval action by the city or county on such projects. Under SB 610, WSAs must be furnished to local governments for inclusion in any environmental documentation for certain projects subject to CEQA. Pursuant to the California Water Code (Section 10912[a]), projects that require a WSA include any of the following:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects identified in this list; or
- A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

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. CalRecycle released an analysis titled "Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals" in August of 2020, which recommended maintaining the disposal reduction targets set forth in SB 1383.[74]

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all new and qualifying remodeled structures in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set

[74] CalRecycle. Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals. August 18, 2020. https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.

of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

City of San José

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal, and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

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

Policy	Description
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.
MS-3.2	Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.
MS-17.1	Manage the limited water supply in an environmentally, fiscally, and economically sustainable manner, by working with local, regional and statewide agencies to establish policies that promote water use efficiency programs, including recycled water programs to support the expanded use of recycled water within San José and neighboring jurisdictions.
MS-18.5	Reduce per capita water consumption by 25 percent by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
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.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.3	Expand the use of recycled water to benefit the community and the environment.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
ER-9.3	Utilize water resources in a manner that does not deplete the supply of surface or groundwater or cause overdrafting of the underground water basin.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
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.
IN-1.7	Implement financing strategies, including assessment of fees and establishment of financing mechanisms, to construct and maintain needed infrastructure that maintains established service levels and mitigates development impacts to these systems (e.g., pay capital costs associated with existing infrastructure that has inadequate capacity to serve new development and contribute toward operations and maintenance costs for upgraded infrastructure facilities).

Policy	Description
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.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-4.1	Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Regional Wastewater Facility.
IN-4.2	Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth.
IN-4.3	Adopt and implement new technologies for the operation of wastewater treatment and water reclamation facilities to achieve greater safety, energy efficiency and environmental benefit.
IN-4.4	Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements.
IN-4.6	Encourage water conservation and other programs which result in reduced demand for wastewater treatment capacity.
IN-5.1	Monitor the continued availability of long-term collection, transfer, recycling and disposal capacity to ensure adequate solid waste capacity. Periodically assess infrastructure needs to

Policy	Description
	support the City's waste diversion goals. Work with private Material Recovery Facilities (MRF) and Landfill operators to provide facility capacity to implement new City programs to expand recycling, composting and other waste processing.
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.
IN-5.13	Designate no new candidate landfill sites until the need for additional landfill capacity has been established. Source reduction, recycling/composting alternatives, and waste conversion should be taken into account when evaluating the need for a landfill.
IP-17.1[75]	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.

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, San José Water Company (SJWC), the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by SJWC. The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water. The site currently uses no water because it is vacant. There is a water line in Terraine Street to serve the site.

Wastewater Services

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 treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[76] The City generates approximately 69.8 million gallons per day (mgd) of dry

[75] Policy IP-17.1, as shown, is modified in this list to reflect only those items relevant to the discussion of solid waste.

[76] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed June 16, 2023. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/regional-wastewater-facility.

weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

There is a sanitary sewer line in Terraine Street to serve the project site. The existing site does not generate wastewater because the site is vacant.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River which then drains into San Francisco Bay. The project site is approximately 0.35 miles east of Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is 25 percent (approximately 16,998 square feet) covered with impervious surfaces. There is an existing storm drain line along the Terraine Street project frontage, which would serve the project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[77]

All solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2035.[78] The City has an annual disposal allocation for 395,000 tons per year. As of January 2023, NISL had approximately 12.4 million cubic yards of capacity remaining.[79]

The site is currently vacant and would not generate solid waste.

[77] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

[78] Anthony Boccaleoni. Division Manager, Republic Services. Personal Communication. May 12, 2023.

[79] Ibid.

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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

Similar to the development 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?

Water

The proposed project would construct up to 345 residential units, four retail spaces, and future office space which would generate new demand for utilities on site. The first phase of the proposed project would generate a demand for approximately 64,490 gallons of water per day based on the residential and retail uses.[80] After the conversion of the parking tower to office, the total use of the proposed project would be 179,396 gallons of water per day. This would be in line with the expected growth of Downtown San José because the proposed project would be consistent with the General Plan designation for the project site. Therefore, the proposed project would not result in increased demand for water resources and would not require new facilities to be constructed or relocated to provide this utility to the site and the project would have a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Wastewater

The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 95 percent of the total on-site water use to be conservative. The proposed project would generate approximately 61,265 gallons of wastewater per day, under the first phase conditions, based on the conservative 95 percent rate for internal potable water use. After the office conversion phase, the proposed project would generate approximately 163,683 gallons of wastewater per day. As stated above, the proposed project is consistent with the General Plan land use designation for the site and the General Plan FEIR found that the development within the expectations of the Downtown Strategy would not result in demand for wastewater processing beyond the existing capacity of the existing facilities in San José. Therefore, the proposed project would not result in the relocation or construction of new wastewater treatment facilities and would result in a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Electric Power and Natural Gas

The proposed project would require approximately 8,106 kWHr/day of electrical power for the first phase operations of development. After the office conversion the proposed project would result in approximately 28,576 kWHr/day of operational electrical power consumption. The proposed project would not utilize gas utilities in compliance with the City of San José Title 20 policies. The proposed project would be consistent with the San José GHGRS and would include solar panels further reducing its demand on energy resources. In addition, the proposed project would be consistent with the General Plan land use designation for the site and the General Plan found that the development within the expectations of the Downtown Strategy would not result in demand for energy generation beyond the capacity of the existing facilities in San José. Therefore, the proposed

[80] CalEEMod Appendix D. May 2021. Residential Usage Rate = 65,154 gal/du/year, Strip Mall = 74,073 gal/1000 sf/year, General Office Building = 177,734 gal/1000 sf/year
Initial Construction = 345 units x 65,154 gal/du/year + 13,445 sf retail x 74,073 gal/1000 sf/year
Office Phase = Initial Construction + (210,328 sf office x 177,734 gal/1000 sf/year)

project would not result in new energy facilities being constructed and would not require the relocation of existing facilities and the project would have a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Telecommunications

The proposed project would be served by existing telecommunications lines which are available in Downtown San José. The proposed project would not result in demand requiring new facilities to be constructed and would not result in relocation of existing facilities because none are located on-site. Therefore, the proposed project would result in a less than significant impact on these utilities. **[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?

Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Although the projected water demand would increase by 64,490 gallons per day for the first phase of construction and 179,396 gallons per day after the completion of the office construction, SJWC concluded that the increase was already accounted for in SJWC's 2020 UWMP. The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce demand for water generated by current and future development. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in Downtown. **[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 noted above, wastewater generated by the proposed project would be treated at the Facility and at an independent wastewater treatment facility located on-site. The independent wastewater treatment facility on-site would have the capacity to treat between 30,000 and 35,000 gallons per day. It is estimated that 30,000 gallons per day of the project's wastewater would be treated at the project site and the remaining 34,490 gallons per day would be treated at the Facility. After construction of the office the Facility treated material would be 140,426 gallons per day.

The proposed project would be consistent with planned growth from build out of the Downtown Strategy 2040. Development allowed under the Downtown Strategy 2040 would not exceed the City's allocated capacity at the Facility; therefore, implementation of the project would have adequate capacity to serve the project's projected demand in addition to the Facility's existing commitments. **[Same Impact as Approved Project (Less than Significant Impact)]**

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?

The proposed project would generate approximately 1,480 pounds of waste per day (270.1 tons per year) for the residential and retail components of the proposed project and 2,986 pounds of waste per day (541.1 tons per year) after the office component is completed.[81] Based on the Downtown Strategy FEIR, build out of the Downtown Strategy 2040 could generate approximately 102,572 tons of solid waste per year. As mentioned previously, NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project.

Future development under the Downtown Strategy 2040, including the proposed project, would be required to comply with existing federal, state, and local programs and regulations. Therefore, implementation of the project would not generate solid waste in excess of state or local standards. **[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?

Consistent with CALGreen requirements, the proposed project would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

[81] Illingworth and Rodkin. Terraine Site Mixed-Use Project Air Quality Assessment. November 10, 2023. This assessment was based on a previous estimate of 296,064 square feet of office which analyzed a worst-case scenario for the project. The actual project energy consumption would be lower than this estimate.

4.20 Wildfire

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and

the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and

- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[82] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

The project site is in the Downtown San José area and is not located in a High Fire Hazard Severity area as defined by Cal Fire.[83]

[82] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345.
[83] CALFire. "Wildland Hazard & Building Codes." Accessed June 2023. https://egis.fire.ca.gov/FHSZ/.

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?	☐	☐	☐	☒	☐

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

Section 5.0 References

The analysis in this Initial Study/Addendum is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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Section 6.0 Lead Agency and Consultants

6.1 Lead Agency

City of San Jose
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