Draft Supplemental Environmental Impact Report

Valley Title Commercial Project

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

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SUMMARY

The 2.8-acre project site is currently developed with a three-story office building, surface parking lot, and parking kiosk structure. The project proposes to demolish the existing buildings and parking lot and construct a 20-story commercial building with two towers. The building would have up to 1,335,240 square feet of office uses and up to 60,430 square feet of retail and community serving uses on the ground floor. As an option, the project applicant is considering including a bridge on levels 10 through 12 that would connect the two towers.

The following is a summary of the significant impacts and mitigation measures addressed within this SEIR (including the Initial Study in Appendix A). The project description and full discussion of impacts and mitigation measures can be found in Section 2.0 Project Information and Description and Section 3.0 Environmental Setting, Impacts, & Mitigation.

Significant Impacts	Mitigation Measures
Air Quality	
Impact AIR-1: Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of the BAAQMD threshold for cancer risk of 10 per million. In addition, construction activities on-site would expose sensitive receptors to $PM_{2.5}$ emissions in excess of the BAAQMD threshold of 0.3 micrograms.	**MM AIR-1.1:** Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the 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, at a minimum, meet U.S. EPA Tier 4 final emission standards for particulate matter (PM_{10} and $PM_{2.5}$). • If Tier 4 equipment is not available, 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. Environmental Protection Agency (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 an 88 percent or greater reduction in particulate matter exhaust in comparison to uncontrolled equipment.

	• Use of alternatively fueled or electric equipment. • Stationary cranes and construction generator sets shall be powered by electricity. • Alternatively, the project applicant could develop a plan that reduces on- and near-site construction particulate matter emissions by a minimum 88 percent or greater in comparison to uncontrolled equipment. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).
Biological Resources	
I**mpact BIO-1:** Development of the proposed project would result in impacts to nesting birds, if present on the site at the time of construction.	**MM BIO-1.1:** Nesting Raptors and Migratory Birds: 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 qualified 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 qualified ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction. • Prior to any tree removal, or approval of any grading or demolition permits (whichever occur first), the project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.
Cultural Resources	
Impact CUL-1: The project would result in significant construction vibration related impacts to nearby historic era buildings approximately five feet from the project site.	See mitigation measure **MM NOI-2.1**.
Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.	**MM CUL-2.1: Cultural Sensitivity Training.** Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by the 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. **MM CUL-2.2: Preliminary Investigation.** Prior to the issuance of any demolition, grading or building permits, including potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology, in consultation with a Native

	American representative registered with the Native American Heritage Commission 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, shall complete a subsurface exploration at the site, to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically excavated below existing stratigraphic layers to evaluate the potential for Native American and historic era resources. If any archeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations, shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to issuance of any grading permit. If deemed necessary, based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CUL-2.4 shall be prepared by a qualified archaeologist, in consultation with a Native American representative registered with the Native American Heritage Commission 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. If no evidence of historic era resources are found during the preliminary investigation, then monitoring of all construction-related ground disturbing activities will be required as described in MM CUL-2.3. **MM CUL-2.3: Sub-Surface Monitoring.** If no evidence of historic era resources are found during the preliminary investigation, a qualified archeologist, in collaboration with a Native American monitor, registered with the Native American Heritage Commission 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, shall be present during applicable earthmoving activities including, but not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major

	landscaping. If evidence of historic era resources are found during monitoring, then an archaeological resources treatment plan (as described in MM CUL-2.4) shall be prepared by a qualified archaeologist, in consultation with a Native American representative registered with the Native American Heritage Commission 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. **MM CUL-2.4: Treatment Plan.** If required pursuant to the MM CUL-2.2 or CUL-2.3, a qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission 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, shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement or Director's designee prior to approval of any grading permits. The treatment plan shall contain, at a minimum: • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Monitoring schedules and individuals • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information) • Detailed field strategy to record, recover, or avoid the finds and address research goals. • Analytical methods.

	• Report structure and outline of document contents. • Disposition of the artifacts. • Security approaches or protocols for finds. • Appendices: all site records, correspondence, and consultation with Native Americans, etc. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Once implementation of the Treatment Plan is complete, no further mitigation is required on the project site. **MM CUL-2.5: Evaluation.** The project applicant shall notify the Director of Planning, Building, and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.
Hazards and Hazardous Materials	
Impact HAZ-1: Development of the proposed project could result in impacts to construction workers from exposure to contaminated soils, soil gas and groundwater due to previous use.	**MM HAZ-1.1:** Geophysical Survey. Consistent with the recommendations of the Phase I ESA completed for the proposed project, prior to the issuance of any demolition, grading, or building permits, the project applicant shall retain a qualified environmental professional to perform a geophysical survey of the project site to determine the presence and extent of hazardous materials, USTs, in-ground lifts, clarifiers, or

	drains associated with historic uses of the project site. The geophysical survey shall be presented to the City's Environmental Compliance Officer for review and approval. **MM HAZ-1.2:** Prior to the issuance of any grading, demolition, or building permits (whichever occur first), the project applicant shall obtain regulatory oversight from the Regional Water Quality Control Board, Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared under regulatory oversight and approval by a qualified environmental consultant that identifies remedial measures and/or soil management practices, as determined by the regulatory oversight agency, to ensure construction worker safety and protect the health of future occupants. The plan and evidence of regulatory oversight 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.
Noise	
Impact NOI-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses.	**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or demolition permits. As part of the noise logistics plan, construction activities for the proposed project shall include,

	but are not limited to, the following best management practices: • The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • The unnecessary idling of internal combustion engines shall be prohibited. • Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible). • The surrounding neighborhood within 500 feet shall be notified early and frequently of the construction activities. • A "noise disturbance coordinator" shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
Impact NOI-2: Construction vibration levels would exceed the General Plan threshold of 0.08 in/sec PPV for historic era buildings approximately five feet from the project site.	**MM NOI-2.1:** Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions prior to, during, and after vibration generating construction activities. The plan shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The vibration monitoring, treatment, and reporting plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval.

	As part of the construction vibration monitoring, treatment, and reporting plan, construction activities for the proposed project shall include, but are not limited to, the following measures: • The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period. • Prohibit pile driving. • Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 60 feet of any adjacent building. • Document conditions at all historic structures located within 60 feet of construction and at all other buildings located within 25 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

	• Vibration limits shall be applied to vibration-sensitive structures located within 60 feet of any construction activities identified as sources of high vibration levels. • Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities and all other buildings within 25 feet of construction activities. Surveys shall be performed for the entire building and occur prior to any construction activity, in regular intervals during construction to be defined during preparation of the vibration monitoring and construction contingency plan, and after project completion, and shall include internal and external crack, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures. • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, identify structure-specific vibration thresholds, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits. • At a minimum, vibration monitoring shall be conducted during demolition and excavation activities. • If vibration levels approach City's vibration thresholds, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.

	• Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. • Conduct a post-construction survey on structures where vibration levels would be highest or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey will be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.

Summary of Alternatives to the Proposed Project

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives, including alternatives considered but rejected, is provided in Section 7.0 Alternatives Analysis.

No Project Alternative

The No Project Alternative would retain the existing land uses on-site as is. If the project site were to remain as is, the significant impacts of the project would not occur.

Reduced Scale Alternative

The Reduced Scale Alternative would construct a 20-story approximately 1,194,233-square foot building with a reduced footprint to allow a 60-foot setback between the proposed and existing adjacent commercial buildings.

Areas of Public Controversy

Areas of public concern include:

- Loss of potential historic structures

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

This SEIR tiers from the Downtown Strategy 2040 FEIR because the project was included in the overall development that was analyzed for that document at a program level. Consistent with CEQA Guidelines Sections 15060 and 15081, during the preliminary review of the project, the City, as Lead Agency, determined that an SEIR would be required because of the size of the project and outcomes of comparable sized projects in the area. The SEIR evaluation process is the same as the EIR process as outlined below.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, state, and federal agencies on July 27. The standard 30-day comment period concluded on August 30, 2021. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City also held a public scoping meeting on August 16, 2021 to discuss the project and solicit public input as to the scope and contents of this SEIR. The meeting was held at online via zoom video conferencing. Appendix K of this EIR includes the NOP and comments received on the NOP.

Since circulation of the NOP, changes have been made to the proposed project. At the time the NOP was published, the project proposed construction of a 20-story commercial building with two towers including a total of 1,397,321 square feet of office space, and 50,000 square feet of ground floor retail space. Currently, the project proposes to construct a 20-story commercial building with two towers including a total of 1,335,240 square feet of office space, and 60,430 square feet of ground floor retail space. Because the overall building envelope is similar to and less than that stated in the NOP and the total square footages for each proposed land use have not changed substantially from what was stated in the NOP. More specifically, the office square footage was reduced by 62,081 square feet and the 10,430 square foot increase in retail is negligible. Therefore, this change in the

project description is not considered substantial new information and recirculation of the NOP is not required.

1.2.2 Draft EIR Public Review and Comment Period

Publication of this Draft SEIR will mark the beginning of a 45-day public review period. During this period, the Draft SEIR will be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of this Draft SEIR will be sent directly to every agency, person, and organization that commented on the NOP, as well as the Office of Planning and Research. Additionally, consistent with Assembly Bill (AB) 819, which requires all CEQA environmental documents to be submitted electronically to the Office of Planning and Research's CEQAnet database, a copy of this Draft SEIR will be sent to and available on the CEQAnet Webportal. Written comments regarding the environmental review contained in this Draft SEIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, and Code Enforcement
Attn: Kara Hawkins, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor
San José, CA 95113
Kara.Hawkins@sanjoseca.gov

1.3 FINAL EIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

- Revisions to the Draft SEIR text, as necessary;
- List of individuals and agencies commenting on the Draft SEIR;
- Responses to comments received on the Draft SEIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft SEIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 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 and available for public inspection 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 15094(g)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The 2.8-acre project site is located at 300 South 1st Street and 345 South 2nd Street in downtown San José. The "L" shaped project site is bounded by San Carlos Street to the north, San Salvador Street and existing commercial buildings to the south, South 2nd Street to the east, South 1st Street to the west, as shown in Figure 2.2-1, Figure 2.2-2, and Figure 2.2-3.

2.2 PROJECT DESCRIPTION

The proposed project would demolish the existing three-story, 58,362-square foot office building, parking kiosk structure, and approximately 95,000-square foot surface parking lot and construct a 20-story commercial building with two towers over five shared floors. The building would have a maximum height of 301 feet to the top of the parapet. A total of 1,319,340 square feet of office uses are proposed, with approximately 60,430 square feet of active retail and community serving uses on the ground floor. As an option, the project applicant is considering including a bridge on levels 10 through 12 that would connect the two towers and include 15,900 square feet of additional office space, for a total of 1,335,240 square feet of office uses. Refer to Figure 2.2-4, Figure 2.2-5, Figure 2.2-6, Figure 2.2-7, and Figure 2.2-8 for the site plan and elevations.

A total of 35,821 square feet of outdoor space would be provided in the form of landscaped terraces at the ground floor and levels three and five, as well as balconies on levels two through 20. If the bridge option is selected, an additional 7,950 square feet of outdoor space would be provided at level 12 on the roof of the bridge.

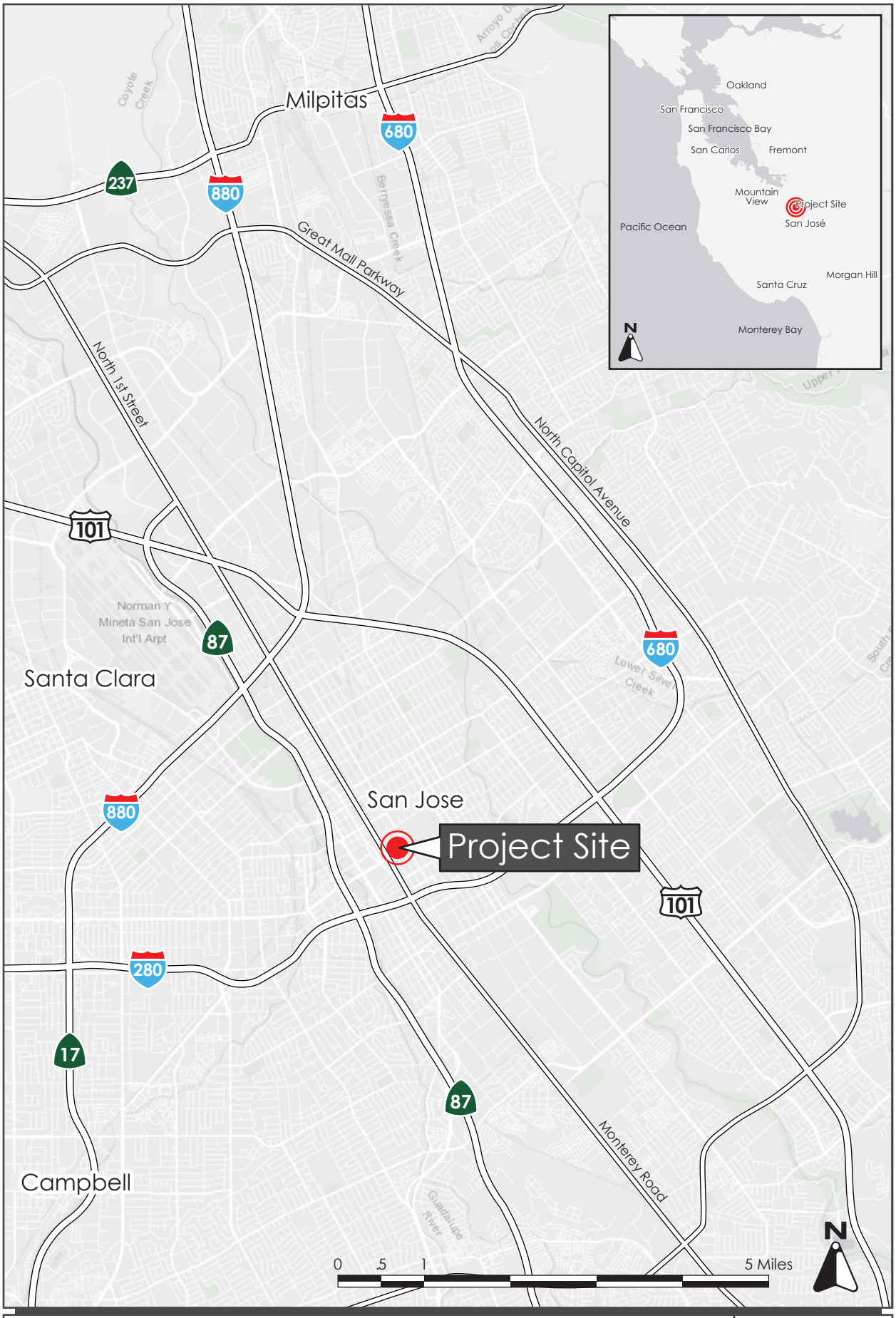
Site Access, Parking, and Circulation

Access to the site is currently provide via one full access driveway on South 2nd Street located mid-block approximately 130 feet north of the East San Salvador and South 2nd Street intersection. The existing driveway would be replaced with two new full access driveways on South 2nd Street and East San Salvador Street. Both new driveways would provide access to the proposed below-grade parking structure.

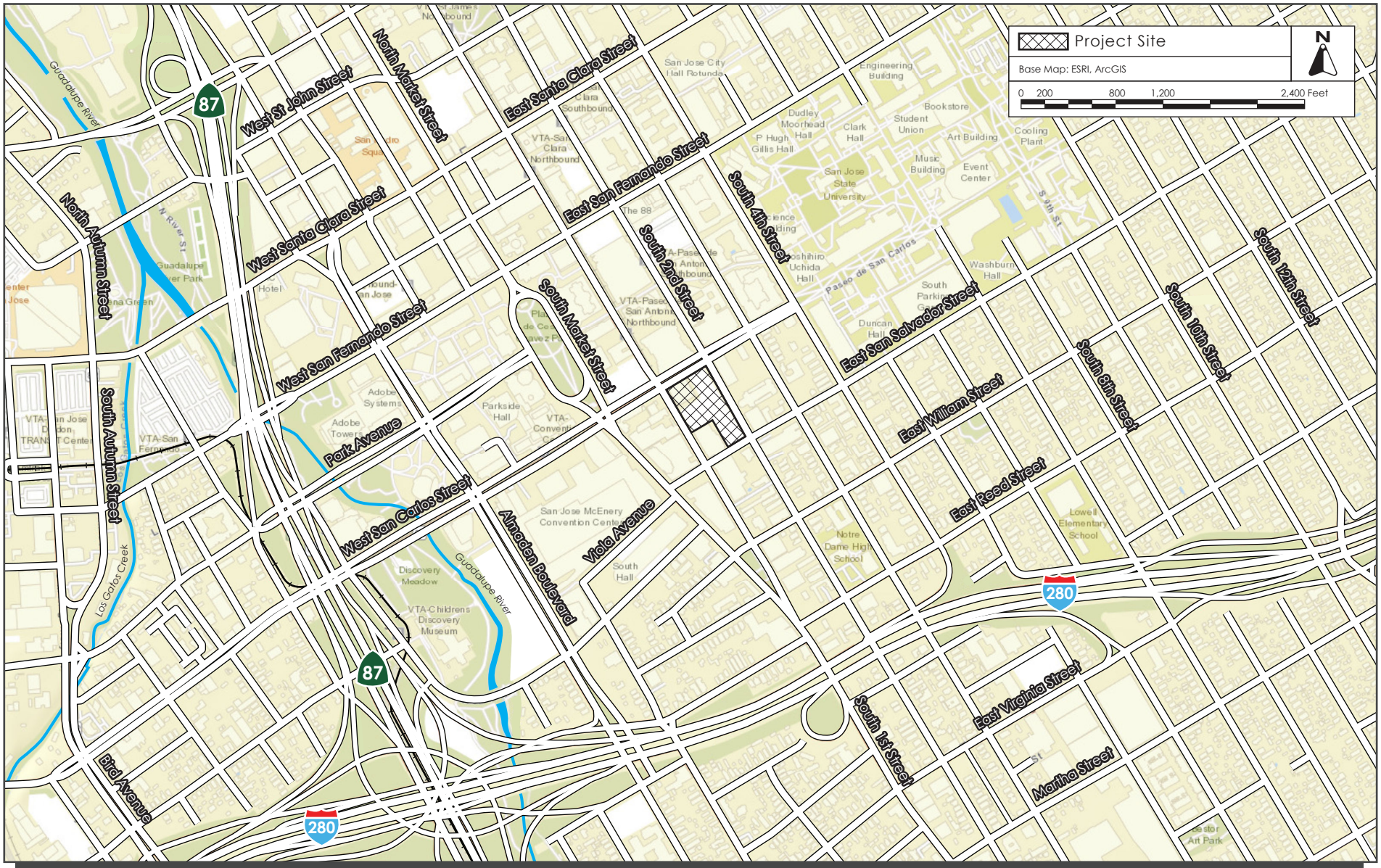
The project proposes a five-level below grade parking garage with a total of 1,192 vehicle parking spaces. In addition, the project proposes two bike storage/shower rooms on the first below-grade parking level.

Mechanical Equipment

The project would include mechanical equipment for building heating, cooling and ventilation, as well as generators and a fire pump in case of emergency. The project would include two diesel powered emergency back-up generators. Additionally, three cooling towers and an air sourced heat pump would be located in a mechanical equipment room in the first below-grade level and at Level 20.

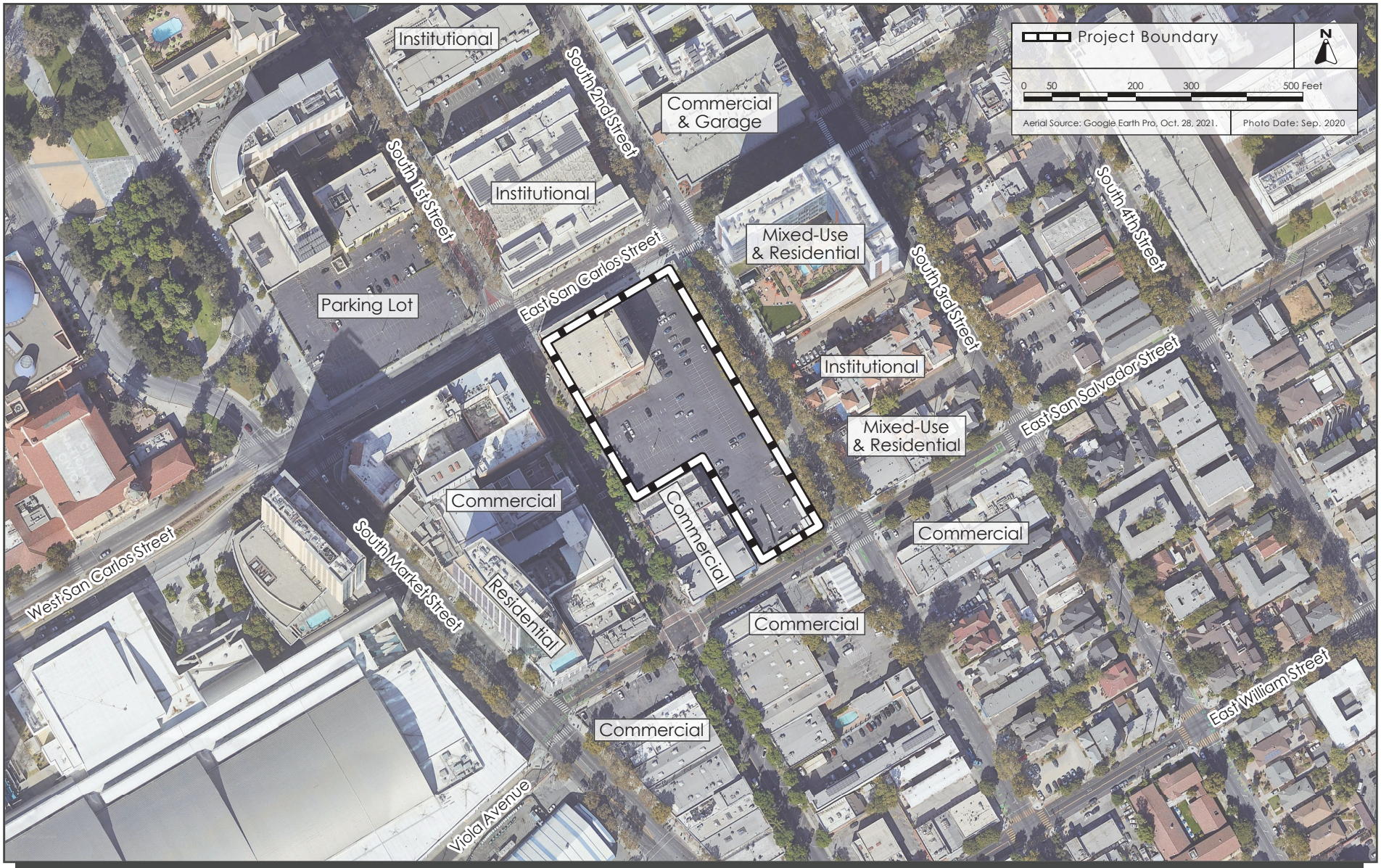


REGIONAL MAP | FIGURE 2.2-1



VICINITY MAP

FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.2-3

Source: GGN, RANA Landscape Architecure, March 2022.

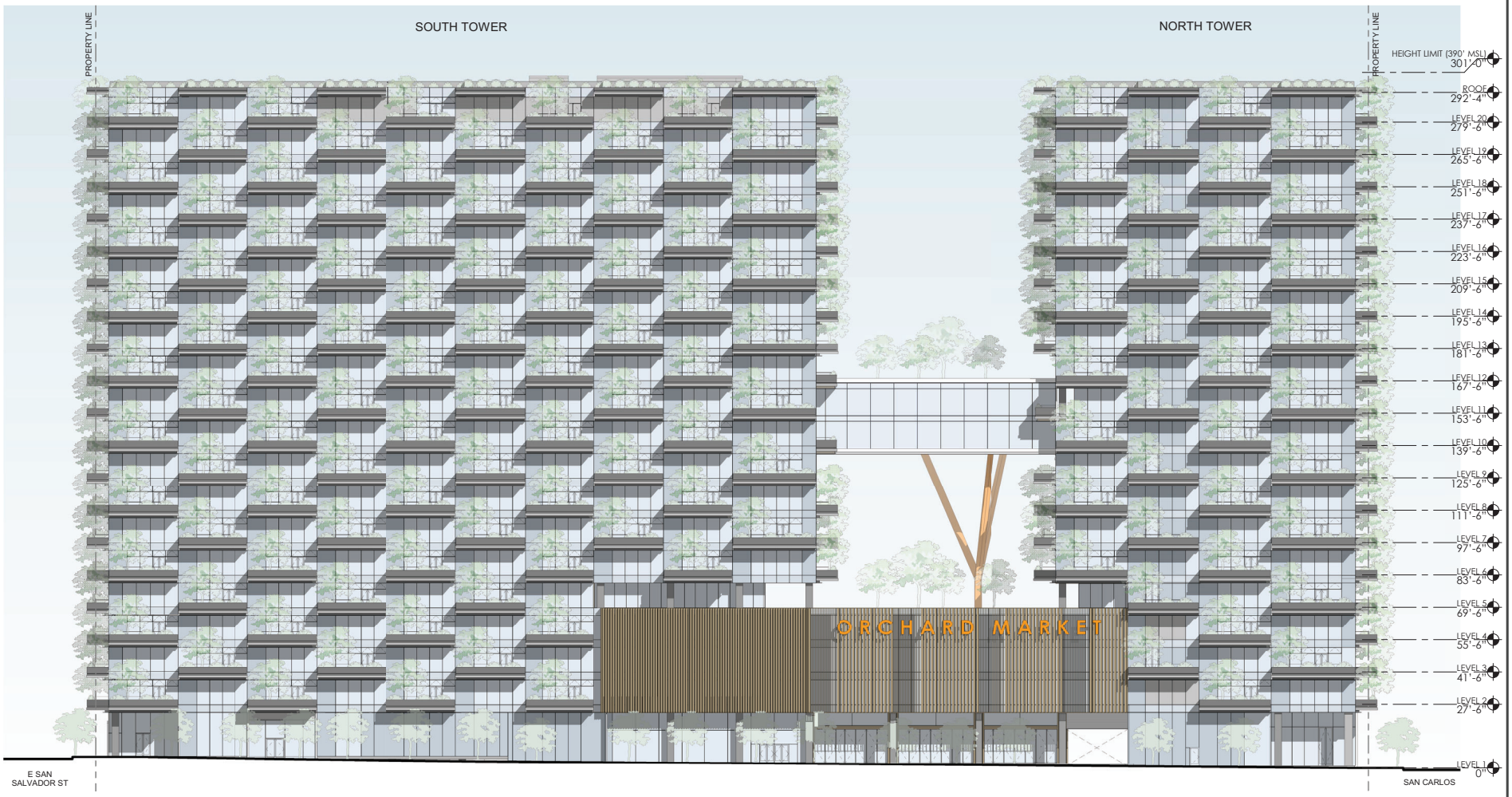
CONCEPTUAL SITE PLAN

FIGURE 2.2-4

Source: WRNS Studio, March 2022.

CONCEPTUAL WEST ELEVATION

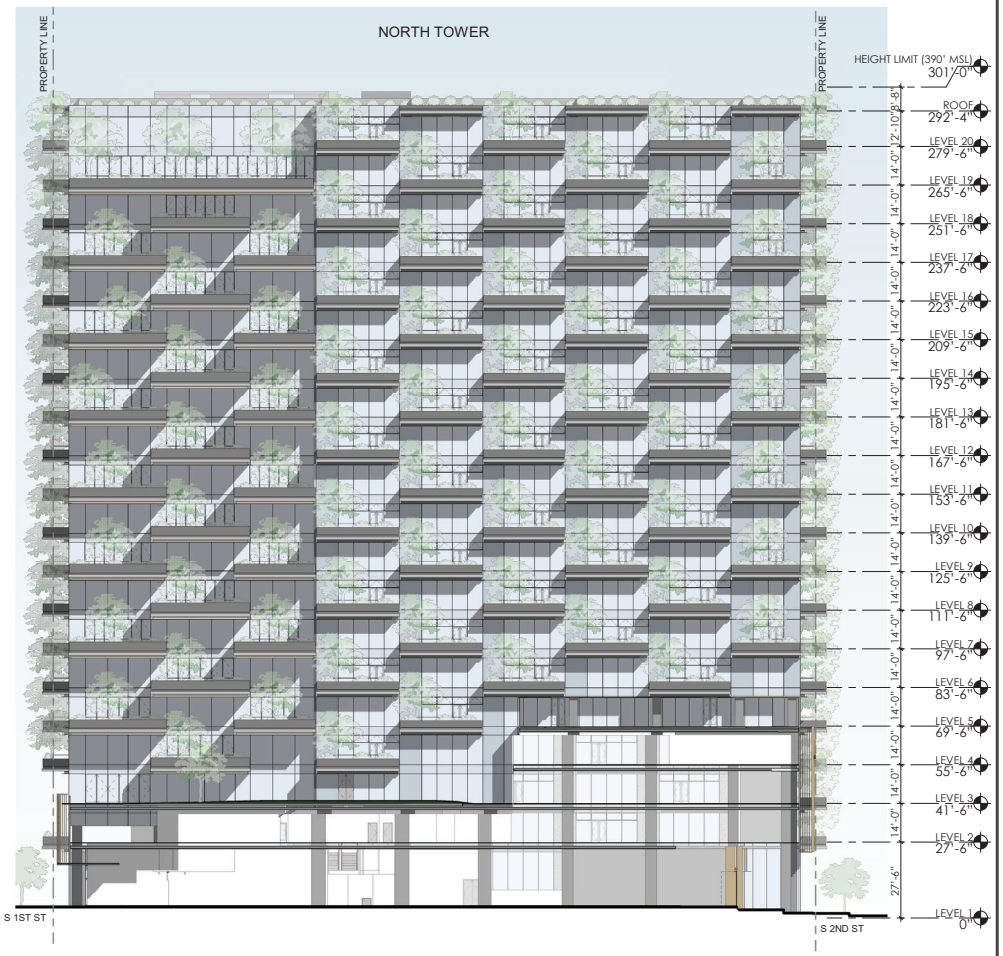
FIGURE 2.2-5



Source: WRNS Studio, March 2022.

CONCEPTUAL EAST ELEVATION

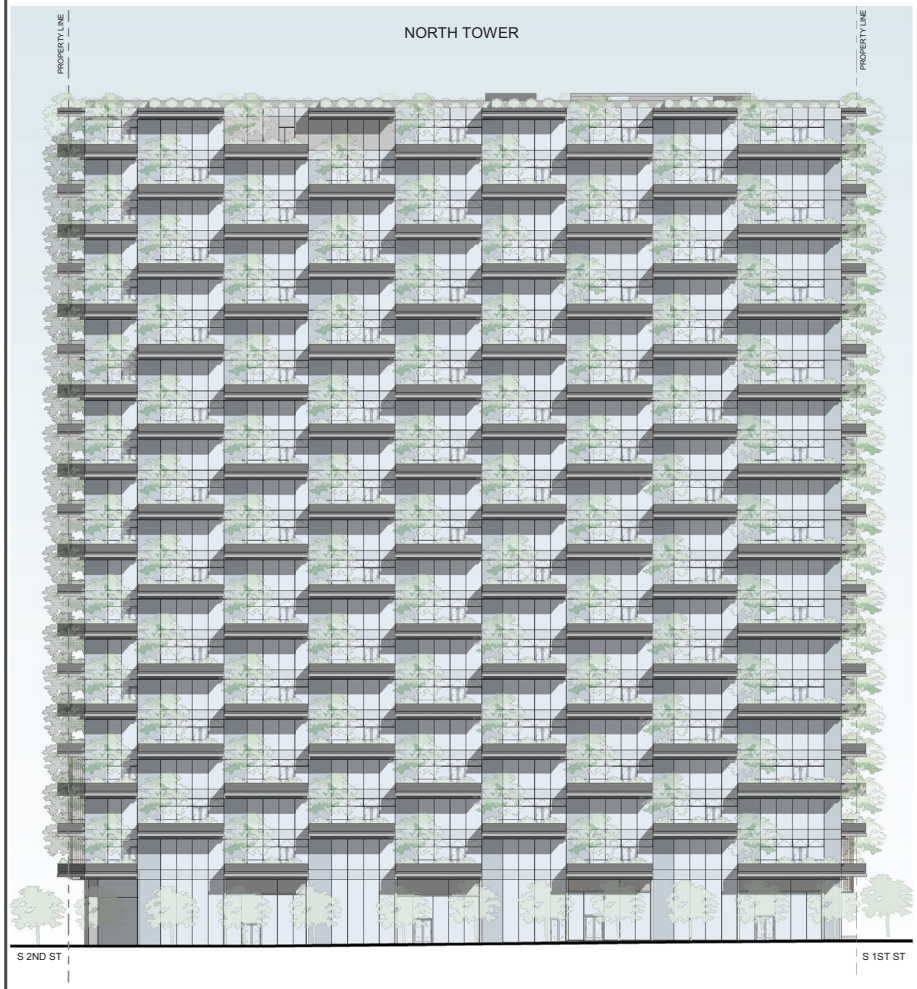
FIGURE 2.2-6



Source: WRNS Studio, March 2022.

CONCEPTUAL SOUTH ELEVATION

FIGURE 2.2-7



Source: WRNS Studio, March 2022.

CONCEPTUAL NORTH ELEVATION

FIGURE 2.2-8

Utility Improvements

The project would connect two new storm drain laterals to the existing 24-inch storm drain in South 1st Street, replace the existing 6-inch storm lateral at the corner of South 2nd Street and East San Carlos Street with a new 12-inch storm lateral, and connect to the existing 24-inch storm drain main along San Salvador Street via a new 12-inch storm drain lateral. The project would connect to the existing 14-inch sanitary sewer line in South 1st Street via a new six-inch sanitary sewer lateral and connect to the existing eight-inch sanitary sewer line in South 2nd Street via two new six-inch sanitary sewer laterals.

Landscaping

Existing on-site landscaping consists of ornamental trees around the perimeter of the site. A total of 34 trees are located on and adjacent to the project site, including two on-site tree and 32 street trees. No other landscaping is present within the project site. The proposed project would remove the two on-site trees and 11 street trees. The remaining 21 street trees would be protected during project construction and 28 new street trees would be planted along San Carlos, South 1st, South 2nd, and San Salvador Streets. Additionally, a total of 513 new trees would be planted in the proposed terraces and balconies and planters on levels one through three, five, and seven through 20. The conceptual landscaping plan is shown in Figure 2.2-9, below.

General Plan and Zoning Designations

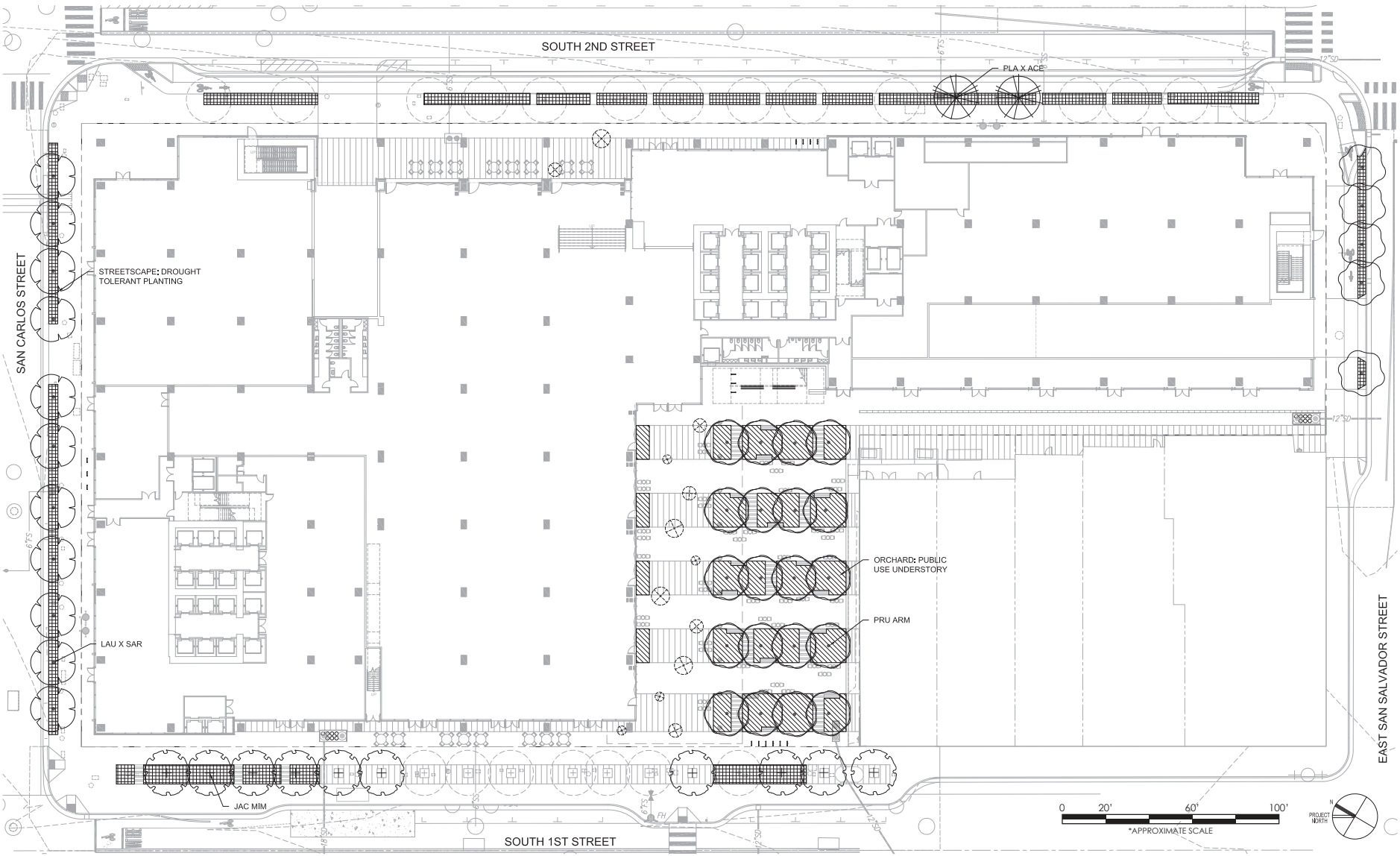
The site is designated as Downtown in the General Plan and is zoned DC-Downtown Primary Commercial. The Downtown designation includes office, retail, service, residential, and entertainment uses in the downtown area. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Under this designation, projects can have a maximum FAR of 30.0 and up to 800 dwelling units per acre.

Under the DC-Downtown Primary Commercial Zoning District, development is only subject to the height limitations necessary for safe operation of Norman Y. Mineta San José International Airport. Developments located in this zoning district are not subject to any minimum setback requirements. This designation permits the project's proposed office and retail uses.

The proposed project would have a FAR of 11.0 and is consistent with the existing General Plan Land Use Designation, and Zoning District. Refer to Section 4.11 Land Use and Planning for a detailed discussion.

Green Building Measures

The proposed project would be required to conform to the California Green Building Code which includes design provisions intended to minimize wasteful energy consumption. The project proposes LEED Platinum certification, which would exceed the requirements of San José Council Policy 6-32, Private Sector Green Building Policy, and the City's Green Building Ordinance.



Source: GGN, RANA Landscape Architecture, March 2022.

CONCEPTUAL LANDSCAPING PLAN

FIGURE 2.2-9

Transportation Demand Management

The project is proposing reduced parking as allowed by the Municipal Code and a Transportation Demand Management is required. Transportation Demand Management (TDM) programs are intended to reduce vehicle trips and parking demand by promoting the use of multimodal transportation options. By implementing TDM programs, land use authorities would use available transportation resources more efficiently. The proposed project could propose a number of TDM measures as listed in the City's Municipal Code (refer to Section 20.90.220.A and 20.70.330. A of the City's Municipal Code). The project proposes the following TDM measures:

- Location in proximity to existing transit facilities, pedestrian-oriented design, limited automobile parking supply, bicycle parking and on-site showers, transit subsidies, a TDM information and program management coordinator, Guaranteed Ride Home program, and telecommuting options
- Transit Oriented Development, located near existing transit facilities
- Pedestrian Oriented Design
- Limited automobile parking supply
- Bicycle parking and on-site shower facilities for bicycle commuters located in the first level below grade
- Transit subsidies for future employees
- TDM information and program management coordinator
- Guaranteed Ride Home program
- Telecommuting options for future office employees

Pedestrian, and Transit Facilities Improvements

The proposed project would include improvements to the bicycle, pedestrian and transit facilities in the project vicinity including the following:

- Construction of a 26-foot-wide sidewalk with street trees along the South 1st Street frontage.
- Construction of a 22-foot-wide attached sidewalk with street trees, a five-foot wide raised bikeway, and a three-foot wide landscaped buffer along the South 2nd Street frontages
- Construction of an 18-foot-wide attached sidewalk with street trees, a five-foot wide raised bikeway, and a four-foot-wide landscaped buffer along the East San Salvador Street frontage. Construction of bulb-outs with directional curb ramps at the corner of South 1st Street and West San Carlos Street and at the existing midblock pedestrian crosswalk along the South 1st Street frontage.

Wastewater Treatment

Proposed Project

As noted above, the proposed project would connect to the existing 14-inch sanitary sewer line in South 1st Street via a new 6-inch sanitary sewer lateral and connect to the existing eight-inch sanitary sewer line in South 2nd Street via two new six-inch sanitary sewer laterals. Wastewater generated on-site would be transported to the San José-Santa Clara Regional Wastewater Facility (the Facility) via the City's municipal sanitary sewer system.

Independent Wastewater Treatment Facility Option

Additionally, as a project option, the applicant is considering connecting to an independent wastewater treatment facility located in the adjacent Bo Town project to the south, across San Salvador Street for potential water conservation benefits. If the Bo Town project is approved, the independent wastewater treatment facility would have a capacity to treat 30,000 – 35,000 gallons per day of wastewater and would serve both the proposed project and the Bo Town project. Approximately 17,800 gallons of wastewater would be treated on the Bo Town site and returned to the project as recycled water and used for non -potable uses including toilet flushing, irrigation, and temperature regulation within the cooling towers. The remaining wastewater generated by the proposed project would be directed to the City's municipal wastewater conveyance system and treated at the San José-Santa Clara Wastewater Regional Treatment Facility (Facility).

Under this project option, the independent wastewater treatment plant would be located within the below-grade parking garage of the Bo Town project. A 12-inch pipe located approximately 10-20 feet below grade would convey wastewater from the Valley Title site to the wastewater treatment facility on the Bo Town site. Additionally, a six-inch pipe at the same depth would return recycled water from the Bo Town site to the proposed project for non-potable uses.

Construction of the wastewater treatment facility would be limited to assembly of pre-manufactured wastewater treatment plant components within the Bo Town project. Assembly of the wastewater treatment facility would occur concurrently with construction of the Bo Town project and independent of the proposed Valley Title project. Construction of the two pipes connecting the two projects would occur concurrently with construction of the proposed project. If the Bo Town project is not approved, 100 percent of the proposed project's wastewater would be conveyed through the municipal sewer system, treated at the Facility, and no pipe connection would be constructed between the two sites.

On-Site Renewable Energy Generation

Approximately 10 percent of the electricity demand for the proposed project would be generated on-site by rooftop photovoltaic panels. The remaining 90 percent of the project's electricity demand would be served by San José Clean Energy (SJCE). The applicant has not selected an SJCE program for the project; therefore, the default program would be the Greensource program, which provides 90 percent carbon-free electricity. No electricity storage is proposed.

Project Construction

The project would be constructed over an approximately 42-month period, beginning in April 2023. During this time, construction activities would occur on-site between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday and between 7:00 a.m. and 7:00 p.m. on Saturdays. The project would excavate soils to a maximum depth of 65 feet below ground surface (bgs). Approximately 290,867 cubic yards of soil would be exported from the site.

2.3 PROJECT OBJECTIVES

The stated objectives of the project proponent are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan of locating high density development on infill and underutilized sites to strengthen the downtown as a regional employment, entertainment, and cultural destination. Specifically, provide high density commercial office space with ground floor retail, in proximity to public transit, to support companies that serve creative and innovative industries, contributing to the concept of a complete neighborhood and transit-oriented and pedestrian-oriented environment.

2. Provide a high-quality architectural design that draws inspiration from the region's native ecological systems and agricultural history of orchards to create a distinctive and iconic roofline to the City's skyline.

3. Provide high-quality landscape and privately-owned public open space throughout the project site.

4. Support San Jose's environmental stewardship goals by providing a project that is an example of sustainable design with innovative components such as "water smart," low-or-zero carbon development with integrative design strategies, vertical orchard and pollinator landscape on mixed-use commercial tower made up of native and drought tolerant plants.

5. Provide a project that is financially feasible with the largest square footage and can be constructed, supporting the City's economic development goals, and attracting the best tenant or tenants.

2.4 USES OF THE EIR

This SEIR provides decision makers in the City of San José and the general public with relevant environmental information to use in considering the prosed project. It is proposed that this SEIR be used for appropriate discretionary approvals necessary to implement the project, as proposed. These discretionary actions for the project are anticipated to include the following:

- Site Development Permit
- Demolition Permit(s)
- Building Permit(s)
- Public Works Clearances including Grading Permit(s)
- Lot Line Adjustment

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

The Initial Study (Appendix A) of this document discusses impacts associated with the following resource areas:

- Aesthetics
- Agricultural and Forestry Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire
- Mandatory Findings

As noted in Section 1.1, Purpose of the Environmental Impact Report above, consistent with CEQA Guidelines Sections 15060 and 15081, during the preliminary review of the project, the City, as Lead Agency, determined that an SEIR would be required because of the size of the project and outcomes of comparable sized projects in the area. Thus, this section presents the impact discussions related to the following environmental subjects in their respective subsections:

3.1 Air Quality
3.2 Biological Resources
3.3 Cultural Resources
3.4 Hazards and Hazardous Materials
3.5 Noise and Vibration

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 includes the recommended checklist questions form Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impacts 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). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measures for the first impacts in the Biological Resources section.
- **Impact Conclusions** – Because the analysis in this SEIR tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project specific analysis is presented as it relates to the

findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.

- **Cumulative Impacts** – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guidelines Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for the project impacts, but is to be "guided by the standards for practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

  The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present and probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130 (b)(1)). This EIR uses the list of projects approach.

  The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guidelines Section 15065(a)(3). The cumulative impacts discussion of each environmental issue accordingly addresses the following issues: 1) would the effects of all past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

  Table 2.4-1 provides a summary of the approved but not yet constructed/occupied and pending projects within 0.5-miles radius of the project site.

Table 2.4-1: Summary Project List Within Half-Mile Radius

Project Name	Location	Description
Approved But Not Yet Constructed/Occupied		
335 West San Fernando Street	335 West San Fernando Street	Construction of an approximately 1,315,000-square foot building, 690,328 square feet of research and development and office use, and up to 8,132 square feet of retail uses

Diridon TOD	402 West Santa Clara Street	Construction of up to 1.04 million square feet of office/commercial space, and up to 325 multi-family residences.
Park Habitat (Museum Place)	1800 Park Avenue	Twenty four-story mixed-use building with approximately 214,000 square feet of office, 13,402 square feet ground floor retail, 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units.
200 Park Avenue Office	200 Park Avenue	Construction of an approximately 1,055,000 square foot office building with 840,000 square feet of office space, and 229,200 square feet of above-grade parking.
Gateway Tower	455 South First Street	Twenty-five-story building with up to 308 residential units and approximately 8,000 square feet of ground floor retail.
363 Delmas Avenue	341 Delmas Avenue	Five -story building with up to 120 residential units.
Tribute Hotel	211 South First Street	Twenty four-story, 279 room hotel integrated into a historic building.
425 Auzerias Avenue	425 Auzerias Avenue	Six-story residential building and up to 130 attached residential units.
CityView Plaza	Northeast corner of Almaden Boulevard and Park Avenue	Three 19-story buildings with up to approximately 3.8 million square feet of office and commercial space.
Block 8	282 South Market Street	Twenty-story office building with approximately 568,286 square feet of office and 16,372 square feet of ground floor commercial space
The Mark	459 South 4th Street	Twenty-three-story multi-family residential building
Pending		
Bo Town	409 South 2nd Street	Twenty-nine-story residential building with 6,400 square feet of ground floor retail
South Market Mixed-Use	477 South Market Street	Six-story mixed use building with 130 residential units and approximately 5,000 square feet of commercial space
420 South 2nd Street	420 South 2nd Street	Two mixed use towers, 12 and 22 stories tall, respectively, with 234 total residential units and 8,00 square feet of ground floor retail uses.
420 South 3rd Street	420 South 3rd Street	Twenty-story mixed use building with 146 residential units and 3,00 square feet of ground floor retail uses.

San José Stage/Home 2 Hotel	490 South 1st Street	Seven-story, 132,000-square-foot mixed use building with 151 hotel rooms, and 17,000 square feet of performance theater space.
South 4th Street Mixed-Use	439 South 4th Street	Eighteen-story mixed-use building with 218 residential units, 1,345 square feet commercial uses, and 12,381 square feet restaurant space

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. The geographic area for each environmental issue area is detailed in the analysis.

3.1 AIR QUALITY

The following discussion is based on an Air Quality Assessment prepared by Illingworth & Rodkin, Inc. in March 11, 2022. The report is included in Appendix B of this document.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[1] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.1-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 3.1-1: Health Effects of Air Pollutants

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

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

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

reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

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

Toxic Air Contaminants

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[2] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, 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.

3.1.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

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

[2] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed October 28, 2021. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

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

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce diesel particulate matter (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 state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[3]

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.

[3] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

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.

Local

Envision San José 2040 General Plan

The General Plan includes the following air quality policies applicable to the proposed project.

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-10.5	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-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
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.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures [ATCMs]for construction, grading, quarrying, and surface mining operations.

MS-13.3 Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.1.1.3 *Existing Conditions*

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from the surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

BAAQMD is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: CO, O_3, NO_2, and PM_{10} and $PM_{2.5}$. These pollutants are considered criteria pollutants by the EPA and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. Table 3.1-2 shows violations of state and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2017-2019 period (the most recent years for which data is available).[4]

Table 3.1-2: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2017	2018	2019
SAN JOSÉ STATION				
Ozone	State 1-hour	3	0	1
	Federal 8-hour	4	0	2
Carbon Monoxide	Federal 8-hour	1.8	2.1	1.3
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	6	4	4
$PM_{2.5}$	Federal 24-hour	6	15	0

Source: BAAQMD. "Air Pollution Summaries (2017 – 2019)." Accessed October 28, 2021. https://www.baaqmd.gov/about-air-quality/air-quality-summaries

"Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area, as a whole, does not meet state or federal ambient air quality standards for ground level O_3 and $PM_{2.5}$, nor does it meet state standards for PM_{10}. The Bay Area is considered in attainment or unclassified for all other pollutants.

[4] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

Sensitive Receptors

The nearest sensitive receptors to the project site are the YMCA Childcare Center approximately 50 feet east of the project site, across South 2nd Street and the residences located at 308 South 2nd Street ("The Graduate"), approximately 60 feet east of the project site.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, 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.

3.1.2.1 *Thresholds of Significance*

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.1-3 below.

Table 3.1-3: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Annual Daily Emissions (pounds/year)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)	

3.1.2.2 *Project Impacts*

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

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 3.1-4 below, the proposed project would be consistent with the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.

Table 3.1-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project site is located in proximity to Caltrain, the Altamont Commuter Express (ACE) train, Amtrak, and VTA bus and light rail. The proposed project would be required to include bicycle parking consistent with City standards. The project also proposes reduced parking. Additionally, the project includes a Transportation Demand Management (TDM) program that contains at least three of the measures

Table 3.1-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
		identified in Section 20.90.220.A1 of the City's Municipal Code for the purpose of reduced parking requirements. Therefore, the project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include 284 bicycle parking spaces. The project area has adequate pedestrian facilities including sidewalks, crosswalks, and pedestrian signal heads. Therefore, the project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	As mentioned above, the project would be located in proximity to multiple transit service; therefore, the project is consistent with this measure (refer to Section 4.17 Transportation of Appendix A for more information).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24), the City's Green Building Ordinance, and the most recent CALGreen requirements. In addition, the project would be designed to achieve LEED Platinum certification. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building ordinance and the most recent Building CALGreen requirements which would increase building energy efficiency over standard construction. Therefore, the project is consistent with this measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting	Any trees removed would be required to be replaced in accordance with the City's tree replacement requirements. Therefore, the project is consistent with this measure.

Table 3.1-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction to ensure at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this measure.

As discussed in the table above, the project would be consistent with the applicable control measures and would not conflict with or obstruct implementation of the 2017 CAP.

Construction Period Emissions – Criteria Pollutants

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. Refer to Appendix B for more information regarding assumptions and CalEEMod inputs. The construction schedule assumes that the project would be built over a period of approximately 42 months, or an estimated 1,035 construction workdays. Table 3.1-5 shows the estimated daily air emissions from construction of the proposed project.

Table 3.1-5: Daily Construction Period Emissions (Pounds Per Day)				
Year	**ROG**	**NO_X**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2023 (234 construction workdays)	1.73	14.68	0.87	0.47
2024 (314 construction workdays)	1.90	17.57	0.95	0.54
2025 (313 construction workdays)	35.33	22.71	1.11	0.70
2026 (174 construction workdays)	29.46	13.30	0.79	0.41
BAAQMD Thresholds	54	54	82	54
Exceed threshold?	**No**	**No**	**No**	**No**
Assumes 1,035 construction workdays Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San Jose, California.* March 11, 2022.				

As shown in the table above, project construction would not generate criteria pollutant emissions in excess of the BAAQMD significance thresholds. Furthermore, the project would comply with the City's Standard Permit Conditions for dust control during construction phases (refer to checklist question c). For this reason, the project would result in a less than significant impact.

Operational Emissions – Criteria Pollutants

Operational criteria pollutant emissions associated with the project would be generated primarily from project generators and from vehicles driven by future employees, customers, and vendors. The project proposes two emergency diesel generators [2,500-kilowatts (kW) powered by a 3,674 horsepower (HP) diesel engine] on the first level of the below grade parking structure. The generators would be tested periodically and would power the building in the event of a power failure. It was assumed that the generators would be operated primarily for testing and maintenance purposes. CalEEMod was used to estimate emissions from operation of the project assuming full build out. The earliest the project would be constructed and operational would be 2027. Any emissions associated with build out later than 2027 would be lower than current emissions due to assumed efficiencies over time. Trip generation rates from the Local Transportation Analysis prepared for the proposed project (refer to Appendix B of this document), generator emissions, and CalEEMod defaults or energy use and emissions associated with solid waste generators. Additionally, in order to provide a conservative worst-case scenario of the maximum anticipated operational emissions, this analysis assumed operation of the independent wastewater treatment facility in the Bo Town project because this option includes emissions from operation of the municipal sanitary sewer system as well as the independent wastewater treatment facility.

The assumptions and result are described in detail in the Air Quality Assessment prepared for this project (refer to Appendix B of this document). The estimated daily operational emissions from the proposed project are summarized in Table 3.1-6 below.

Table 3.1-6: Operational Period Emissions

Scenario	ROG	NO_X	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Tons Per Year				
2027 Annual Project Operational Emissions	9.65	2.85	5.84	1.49
Cooling Tower Emission	--	--	0.42	0.25
2027 Existing Use Emissions	0.43	0.15	0.25	0.06
Net Annual Emissions	9.22	2.67	6.01	1.68
BAAQMD Thresholds	10	10	15	10
Exceed Threshold?	**No**	**No**	**No**	**No**
Pounds Per Year				
2027 Daily Project Operational Emissions (pounds/year)	50.52	14.62	32.95	9.18
BAAQMD Threshold	54	54	82	54

Exceed Threshold?	**No**	**No**	**No**	**No**

Note: Assumes 365-day operations

Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San Jose, California.* March 11, 2022.

As shown in Table 3.1-6, operational criteria pollutant emissions associated with the proposed project would not exceed BAAMD significance thresholds for ROG, NO_X, PM_{10}, $PM_{2.5}$. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding an established significance threshold, it would contribute to the previously identified significant air quality impact resulting from full build out of the Downtown Strategy 2040. The proposed project is located in the downtown area which has the lowest VMT of any plan area in the City and is located in proximity to public transit and other services and amenities which would reduce the project's VMT. Therefore, implementation of the project would not conflict with or obstruct implementation of the 2017 CAP.

The proposed project would not exceed the BAAQMD significance threshold for construction and operational criteria emissions. In addition, the project would be consistent with the applicable control measures. Therefore, the proposed project would not conflict with or obstruct implementation of the 2017 CAP. **[Less Impact than Approved Project (Significant 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 previously discussed, the Bay Area is currently in non-attainment for PM_{10} under State standards. The project would not conflict with the 2017 CAP because the project is included in the adopted San José Downtown Strategy 2040 Plan, would have construction and operational emissions below the BAAQMD thresholds (refer to checklist question a. above), be considered urban infill, and would be located near employment centers and transit facilities with regional connections. As a result, the proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. **[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. Consistent with the Downtown Strategy 2040 FEIR, the project shall implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Condition:

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of these Standard Permit Conditions consistent with the Downtown Strategy 2040 measures, fugitive dust and other particulate matter during construction would have a less than significant air quality impact.

Community Risk Impacts – Project Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC, and would pose a health risk to nearby receptors. A community risk assessment of the project construction activities was completed for the proposed project. The assessment evaluated potential health effects to nearby receptors (within 1,000 feet of the project site) from construction emissions of DPM and $PM_{2.5}$. For the purposes of this analysis, receptors include locations where sensitive populations would be present for extended periods of time including all existing childcare and residences to the east and surrounding the project site. The project proposes extended construction hours which would include 7:00 a.m. to 10:00 p.m. Monday through Friday, and from 7:00 a.m. to 7:00 p.m. on Saturdays for the entire duration of construction.

The CalEEMod model was used to determine total annual DPM and $PM_{2.5}$ dust emissions for the off-road construction equipment and on-road vehicles that would be used during project construction. Additionally, the U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing receptors in the vicinity of the project. The off-site truck and passenger vehicle emission rates were calculated using the EMFAC2017 model. Modeling assumptions and results are included in Appendix B of this document.

The maximum modeled annual DPM and $PM_{2.5}$ concentrations were identified at the first floor of the YMCA Childcare Center to the east of the project site opposite South 2nd Street, the residential receptor with maximum construction impacts is located at 432 South 2nd Street, to the southeast of the project site (refer to Figure 3.1-1). The estimated cancer risks and annual $PM^{2.5}$ concentrations are summarized in Table 3.1-7 below.

Table 3.1-7: Construction and Operational Risk Impacts at the Off-Site Receptors

Source		Cancer Risk (per million)	Annual PM2.5 ($\mu g/m^3$)	Hazard Index
YMCA Childcare Center MEI				
Project Construction (Years 0-3)	Unmitigated	82.42 (infant)	0.84	0.03
BAAQMD Single-Source Threshold		>10.0	<0.3	1.0
Exceed threshold?	**Unmitigated**	**Yes**	**Yes**	**No**
Most Affected Nearby Residence – First Floor Receptor				
Project Construction (Years 0 -3)	Unmitigated	33.32 (infant)	0.28	0.02
BAAQMD Single-Source Threshold		>10.0	>0.3	>1.0
Exceed Threshold?	**Unmitigated**	**Yes**	**No**	**No**

Note: Construction equipment with Tier 4 Final engines, electric cranes, and enhanced BMPs as mitigation.
Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San Jose, California.* March 11, 2022.

As shown in Table 3.1-7 above, the unmitigated maximum cancer risks and annual $PM_{2.5}$ concentrations from construction activities at the project childcare MEI location would exceed the single-source significance thresholds.

Impact AIR-1: Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of the BAAQMD threshold for cancer risk of 10 per million. In addition, construction activities on-site would

expose sensitive receptors to $PM_{2.5}$ emissions in excess of the BAAQMD threshold of 0.3 micrograms.

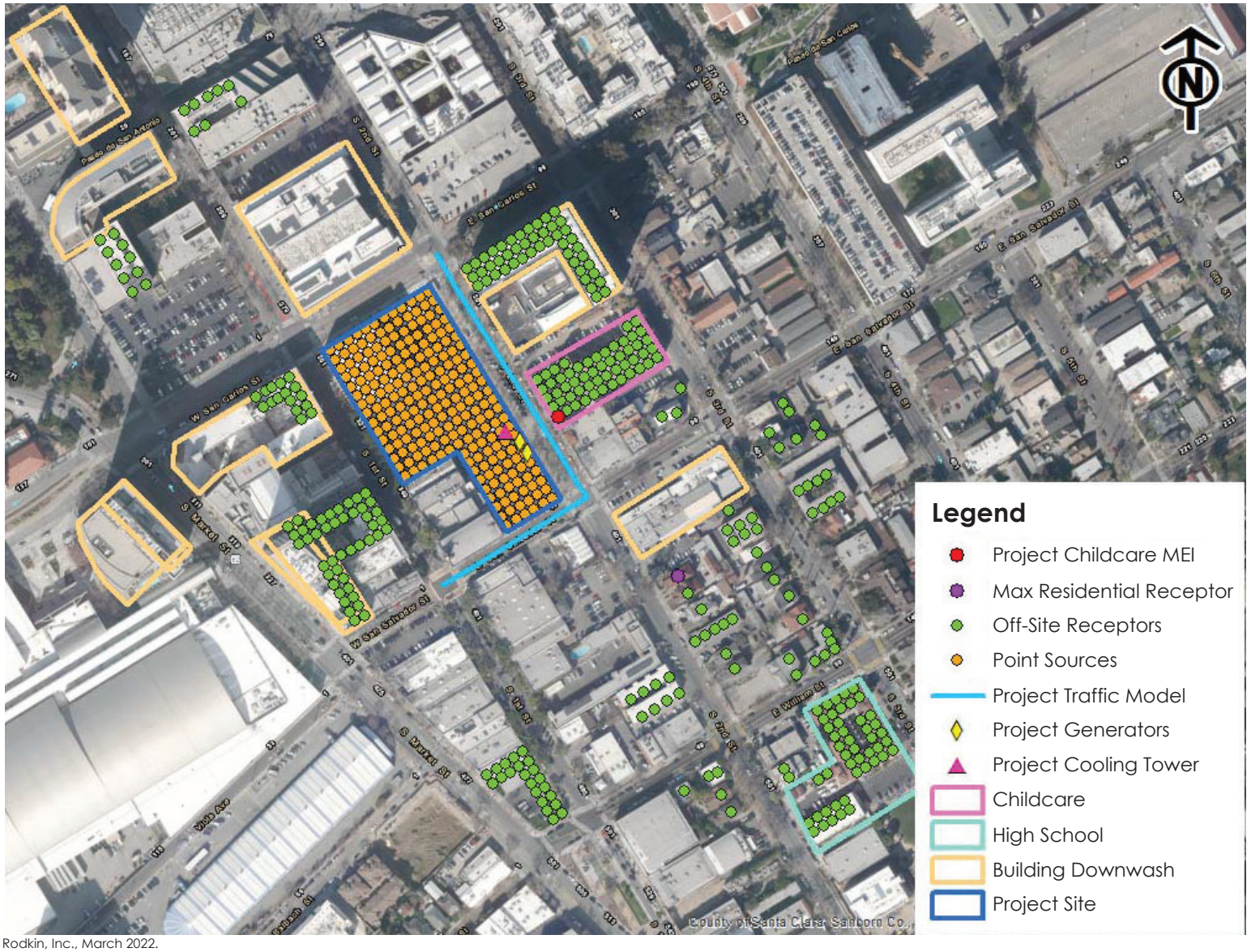
Mitigation Measure

MM AIR-1.1: Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the 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, at a minimum, meet U.S. EPA Tier 4 final emission standards for particulate matter (PM_{10} and $PM_{2.5}$).
- If Tier 4 equipment is not available, 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. Environmental Protection Agency (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 an 88 percent or greater reduction in particulate matter exhaust in comparison to uncontrolled equipment.
- Use of alternatively fueled or electric equipment.
- Stationary cranes and construction generator sets shall be powered by electricity.

Alternatively, the project applicant could develop a plan that reduces on- and near-site construction particulate matter emissions by a minimum 88 percent or greater in comparison to uncontrolled equipment. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

With implementation of Mitigation Measures MM AIR-1.1 and the Standard Permit Conditions consistent with the Downtown Strategy 2040 FEIR measures, the infant residential cancer risk would be reduced to 8.06 cases per one million and 0.09 $\mu g/m^3$, which is below the BAAQMD single-source threshold of 10.0 per million and 0.3 $\mu g/m^3$. Therefore, the project would have a less than significant off-site community risk impact from construction.



Source: Illingworth & Rodkin, Inc., March 2022.

LOCATIONS OF OFF-SITE SENSITIVE RECEPTORS AND MODELED PROJECT TRAFFIC | FIGURE 3.1-1

Community Risk Impacts – Project Operation

The project would include the installation of stand-by generators powered by diesel engines, cooling towers, and would generate some traffic consisting of mostly light-duty vehicles, which would produce TAC and criteria air pollutant emissions. Operational emissions of DPM, TACs, and PM_{10} and $PM_{2.5}$ from project-generated traffic on local roadways and operation of the two proposed emergency diesel generators were modeled using the U.S. EPA AERMOD dispersion model and EMFAC2017 model. Particulate matter emissions from operation of the cooling towers were modeled using the U.S. EPA AERMOD dispersion model. The cooling towers are not powered by a diesel engine, therefore, no DPM emissions would be produced from operation of the cooling towers. Modeling assumptions and results are included in Appendix B of this document.

The estimated cancer risks and annual $PM^{2.5}$ concentrations are summarized in Table 3.1-8 below.

Table 3.1-8: Operational Risk Impacts at the Off-Site Receptors

Source	Cancer Risk (per million)	Annual PM2.5 ($\mu g/m^{3)}$	Hazard Index
YMCA Childcare Center MEI			
Project traffic on S. 2nd Street and E. San Salvador Streets (Years 4-6)	0.14	0.04	<0.01
Project generators (Years 4-6)	<0.01	<0.01	<0.01
Project cooling towers (Years 4-6)	-	0.01	-
Total/Maximum Project Impact (Years 0-6) Unmitigated	<0.15 (infant)	<0.06	<0.02
BAAQMD Single-Source Threshold	>10.0	<0.3	1.0
Exceed threshold? Unmitigated	**No**	**No**	**No**
Most Affected Nearby Residence – First Floor Residences at 446 South 2nd Street			
Project Traffic (Years 4-30)	0.23	0.04	<0.01
Project Generators (Years 4-30)	0.14	<0.01	<0.01
Unmitigated Total/Maximum (Years 0-3) Unmitigated	0.37 (infant)	<0.05	<0.02
BAAQMD Single-Source Threshold	>10.0	>0.3	>1.0
Exceed Threshold? Unmitigated	**No**	**No**	**No**

Note: Due to prevailing wind direction, the most affected nearby residences are located at 446 South 2nd Street and are not the same as the nearest residential receptors.
Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San Jose, California.* March 11, 2022.

As shown in Table 3.1-8 above, the maximum cancer risks, annual $PM_{2.5}$ concentrations, and HI from operation of the project (without mitigation) would not exceed BAAQMD's significance thresholds at the childcare MEI location. Therefore, the project would result in a less than significant operational TAC impact to nearby sensitive receptors.

Criteria Pollutant Emissions

In a 2018 decision (Sierra Club v. County of Fresno), the State Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed the applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in

the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulative significant adverse air quality impacts. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect. As discussed in Section 3.1.2.2, Cumulative Impacts, below, the project would not result in a cumulatively considerable contribution to a significant air quality impact.

The proposed project would implement the identified Standard Permit Conditions and Mitigation Measure AIR-1.1 to reduce construction dust and other particulate matter emissions and TAC emissions. Additionally, the project would have a less than significant impact for criteria pollutants and would not expose sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity the odor emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect off-site people. The project applicant would be required to abide by City policies (such as MS-12.2) which require adequate buffers between sources of odors and sensitive receptors. Implementation of the proposed project would not result in odors that would adversely affect a substantial number of people. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.1.2.3 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative air quality impact?

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts.

No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts.

Cumulative Impact on Off-Site MEI

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a community health risk assessment was prepared for the project (see Appendix B) which looks at all sources of TACs (including highways, streets, and stationary sources identified by BAAQMD) within 1,000 feet of the project site as discussed below. The analysis below also considers nearby projects.

Mobile Sources of TACs

Traffic on high volume roadways (10,000 average daily trips (ADT) or more) is a source of TAC emissions that may adversely impact sensitive receptors in close proximity to the roadways. A review of the project area identified South Market Street as a mobile source of TACs. All other roadways in the area would have an ADT of less than 10,000 ADT.

Stationary Sources of TACs

Nine stationary sources of TAC emissions near the project site were identified using BAAQMD's Stationary Source Risk & Hazard Analysis Tool. Of the nine sources identified, eight sources were diesel generators, and one was a gas dispensing facility.

Construction Risk Impacts from Nearby Approved Development

Within 1,000 feet of the project site, there are 11 proposed and approve developments (e.g., Cityview Plaza[5], Gateway Tower, South Market Mixed-Use, Tribute Hotel, Park Habitat, The Mark, Bo Town, 420 South 2nd Street, 420 South 3rd Street, San Jose Stage/Home 2 Hotel, and South 4th Street Mixed-Use). The mitigated construction risks and hazard impact values for certain development projects that have been approved or are publicly available on the City of San José Environmental Review website, SJpermits portal, and at the City upon request were reviewed and incorporated into this analysis. For developments that did not have available construction impact results at the time of this study, it was assumed that construction risks and hazards from these developments would not exceed BAAQMD's single-source thresholds. This approach provides an overestimate of the community risk and hazard levels because it assumes that all projects within 1,000 feet of the project site would be constructed at the same time and the maximum impacts from the nearby developments occur concurrently with the proposed project at the proposed projects' MEI. However, this is not likely to occur as nearby projects all have different construction schedules. As a result, this analysis represents a conservative worst-case cumulative scenario. Table 3.1-9 summarizes the cumulative health risks at the MEI. Figure 3.1-2 shows the project site and locations of the nearby TAC and $PM_{2.5}$ sources.

Table 3.1-9: Cumulative Community Risk Impacts at the Project Childcare MEI

Source	Cancer Risk (per million)	Annual PM2.5 (µg/m³)	Hazard Index
Project Impacts			
Total/Maximum Project Impact Mitigated	8.21 (infant)	0.09	<0.01
BAAQMD Single-Source Threshold	10	0.3	1.0
Exceed Threshold? Mitigated	**No**	**No**	**No**
Cumulative Operational Sources			

[5] The Cityview Plaza site is located approximately 1,000 feet from the proposed project. However, because the majority of construction for the Cityview Plaza project would occur more than 1,000 feet from the project site, it was not included in the cumulative community risk impacts.

S. Market Street, ADT 18,508	0.17	0.01	<0.01
Team San Jose (Facility ID#2060, Generator), MEI at 790 feet	1.20	0.04	<0.01
FMT SJ, LLC dba Fairmont Hotel, San Jose (Facility ID #8556, Generator), MEI at +1,000 feet	0.40	0.02	<0.01
San Jose Marriot Hotel (Facility ID#15125, Generator) MEI at 860 feet	0.06	0.01	<0.01
Robert F. Peckham Federal Building (Facility ID#15031, Generator)	0.19	0.01	<0.01
San Jose Marriot Hotel (Facility ID#15125, Generator) MEI at 860 feet	0.06	0.01	<0.01
Owl Energy Resources Inc (Facility ID#16778, Generator), MEI at +1,000 feet	0.57	0.11	<0.01
San Jose Redevelopment Agency (Facility ID#17018, Generator), MEI at 805 feet	0.01	--	--
DataPipe Inc. (Facility ID#19298, Generator), MEI at +1,000 feet	2.51	<0.01	<0.01
G&K Management (Facility ID#22239, Generator), MEI at 800 feet	0.06	<0.01	<0.01
Super Gas Mart (Facility ID#111979, Gas Station), MEI at 980 feet	0.04	--	<0.01
Cumulative Temporary Construction Sources			
Gateway Tower Mitigated Construction Emissions – 430 feet southwest	<4.90	<0.06	<0.01
Tribute Hotel Mitigated Construction Emissions – 215 feet north	<0.90	<0.15	<0.01
Park Habitat Mitigated Construction Emissions – 925 feet northwest	<3.40	<0.03	<0.01
The Mark Mixed-Use Mitigated Construction Emissions – 715 feet southwest	<9.45	<0.05	<0.01
Bo Town Mitigated Construction Emissions – 50 feet south	<11.63	<0.08	<0.01
420 South 2nd Street Mitigated Construction Emissions – 100 feet southeast	<10.00	<0.30	<1.00
420 South 3rd Street Mitigated Construction Emissions – 470 feet southeast	<10.00	<0.30	<1.00
San José Stage/Home 2 Hotel Mitigated Construction Emissions – 465 feet south	<3.20	<0.17	<0.01
South 4th Street Mixed-Use Mitigated Construction Emissions	<8.60	<0.09	<0.03
Combined Sources Mitigated	<75.50	<1.55	<2.19

BAAQMD Cumulative Source Threshold	100	0.8	10.0
Exceed Threshold? Mitigated	**No**	**Yes**	**No**

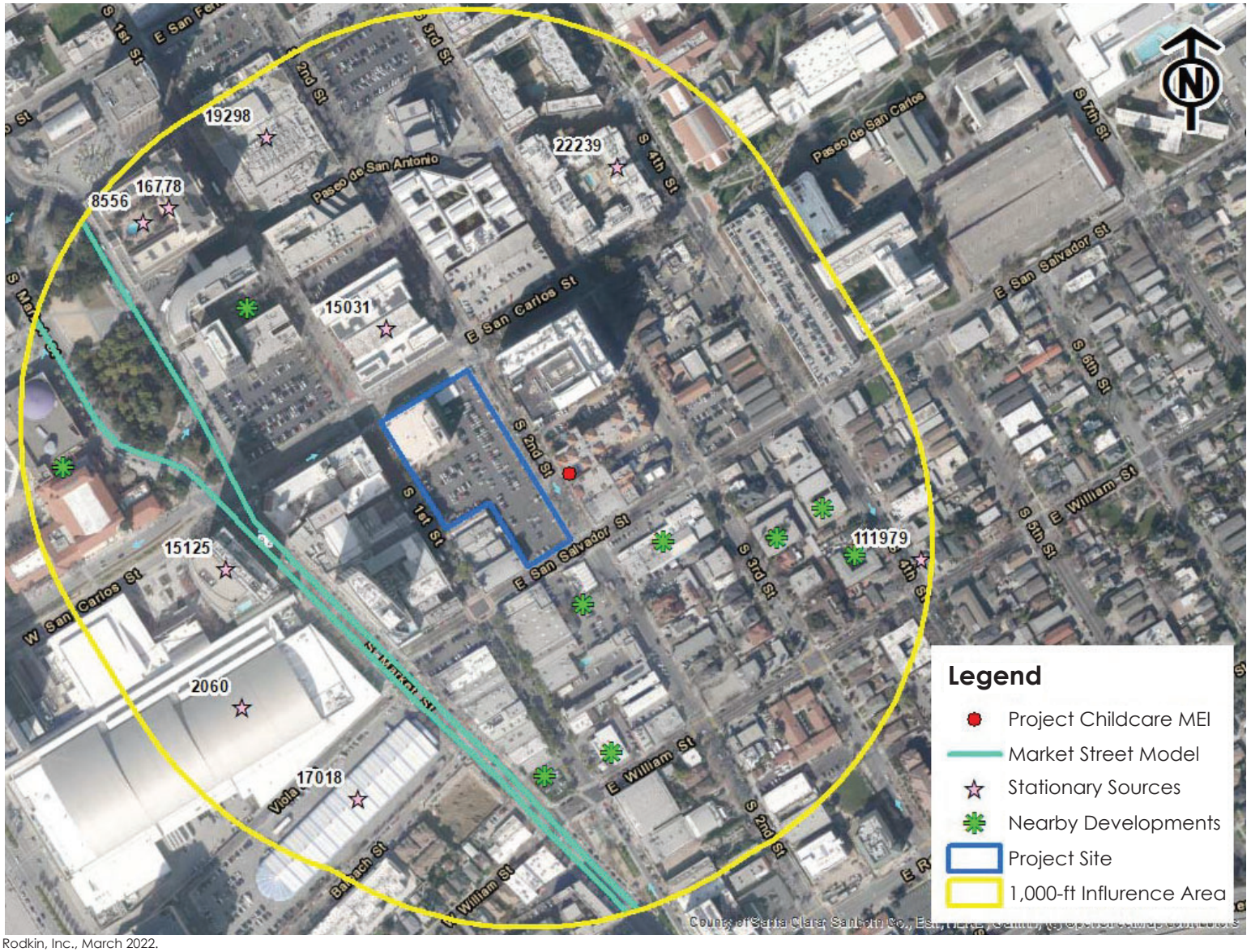
Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San Jose, California.* March 11, 2022.

BAAQMD CEQA Guidelines state that in instances where a pre-existing cumulative health risk impact exist, the project's individual contribution to that cumulative impact should be analyzed.[6] If project health risks would be reduced to below the single-source thresholds with best available mitigation measures, the project's contribution to pre-existing cumulative impacts would not be cumulatively considerable.[7]

As shown in Table 3.1-9above, the combined non-project cumulative sources would exceed the cumulative threshold of 0.8 µg/m^3 for $PM_{2.5}$, resulting in a pre-existing cumulative health risk impact. The project would not exceed BAAQMD single-source thresholds for cancer risk and annual $PM_{2.5}$ concentrations with implementation of Mitigation Measures MM AIR-1.1 and the Standard Permit Conditions. Therefore, the project's contribution to existing cumulative impacts from cumulative construction sources would not be cumulatively considerable. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

[6] BAAQMD. 2017 CEQA Guidelines. May 2017. Page 5-16. https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en

[7] Correspondence with Arena Flores, MSc, Environmental Planner, BAAQMD, February 23, 2021.



Source: Illingworth & Rodkin, Inc., March 2022.

PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 3.1-2

3.2 BIOLOGICAL RESOURCES

The following discussion is based on an Arborist Report prepared by HMH on March 8, 2021. The report is attached as Appendix C.

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[8] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

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

[8] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed February 19, 2021. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

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.

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 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.

Envision San José 2040 General Plan

The General Plan includes the following biological resources policies applicable to the proposed project.

Policy	Description
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 to help soften the appearance of the built

	environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.25	Within new development projects, including preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best management practices. When tree preservation is not feasible include replacement or alternative mitigation measures in the project to maintain and enhance our Community Forest.
ER-2.1	Avoid implementing activities that result in loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of 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.
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 effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies, and guidelines.

3.2.1.2 *Existing Conditions*

Special Status Species

The project site is currently developed with a three-story office building and an approximately 95,000 square feet paved surface parking lot, located within an urbanized area of downtown San José. There are no sensitive habitats or wetlands on or adjacent to the site. Habitats in developed areas such as the project site, are low in species diversity and include predominantly urban adapted birds and animals. Most special status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats.

The project site is located within the Habitat Plan study area and is designated as "Urban-Suburban" land.[9] "Urban Suburban" land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres.

[9] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed October 8, 2021. https://scv-habitatagency.org/193/GIS-Data-Keys-Maps.

Trees

There are a total of 34 trees on and adjacent to the project site. Of the 34 trees, there are 32 street trees and two on-site trees. Twenty-one of the 34 trees on and adjacent to the project site are considered ordinance-sized trees. The following table lists the trees identified in the tree survey prepared by HMH on March 8, 2021. The location of trees is shown on Figure 3.2-1.

Table 3.2-1: Tree Inventory

Number	Botanical Name	Common Name	Circumference (inches)	Status
1	Platanus x hispanica	London Plane	69	Ordinance
2	Platanus x hispanica	London Plane	57	Ordinance
3	Platanus x hispanica	London Plane	47	Ordinance
4	Platanus x hispanica	London Plane	53	Ordinance
5	Platanus x hispanica	London Plane	50	Ordinance
6	Platanus x hispanica	London Plane	69	Ordinance
7	Platanus x hispanica	London Plane	57	Ordinance
8	Platanus x hispanica	London Plane	53	Ordinance
9	Platanus x hispanica	London Plane	50	Ordinance
10	Platanus x hispanica	London Plane	57	Ordinance
11	Platanus x hispanica	London Plane	63	Ordinance
12	Platanus x hispanica	London Plane	69	Ordinance
13	Platanus x hispanica	London Plane	53	Ordinance
14	Platanus x hispanica	London Plane	53	Ordinance
15	Pistacia chinensis	Chinese Pistache	35	Non-Ordinance
16	Platanus x hispanica	London Plane	60	Ordinance
17	Pistacia chinensis	Chinese Pistache	31	Non-ordinance
18	Pistacia chinensis	Chinese Pistache	31	Non-ordinance
19	Pistacia chinensis	Chinese Pistache	38	Ordinance
20	Pistacia chinensis	Chinese Pistache	16	Non-ordinance
21	Syagrus romanzoffiana	Queen Palm	35	Non-ordinance
22	Jacaranda mimosafolia	Jacaranda	50	Ordinance
23	Jacaranda mimosafolia	Jacaranda	57	Ordinance
24	Syagrys romanzoffiana	Queen Palm	35	Non-ordinance
25	Syagrus romanzoffiana	Queen Palm	35	Non-ordinance
26	Jacaranda mimosafolia	Jacaranda	60	Ordinance

27	Syagrus romanzoffiana	Queen Palm	31	Non-ordinance
28	Jacaranda mimosafolia	Jacaranda	35	Non-ordinance
29	Washingtonia robusta	Fan Palm	31	Non-ordinance
30	Washingtonia robusta	Fam Palm	82	Ordinance
31	Syagrus romanzoffiana	Queen Palm	31	Non-ordinance
32	Lagerstroemia Indica	Crepe myrtle	6	Non-ordinance
33	Lagerstroemia Indica	Crepe myrtle	3	Non-ordinance
34	Lagerstroemia Indica	Crepe myrtle	6	Non-ordinance
Source: HMH. *Certified Tree Inventory, Valley Title North Site.* March 8, 2021.				

3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, 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?

TREE LOCATION MAP | FIGURE 3.2-1

Impacts to Nesting Migratory Birds

There are currently 34 trees on and adjacent to the project site. The proposed project would remove a total of 13 trees on and adjacent to the project site. These trees could provide nesting and/or foraging habitat for migratory birds. 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. Any loss of fertile effs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on the site at the time of construction.

Mitigation Measures: shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests during construction, consistent with the Downtown Strategy 2040 FEIR.

MM BIO-1.1: Nesting Raptors and Migratory Birds: 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 qualified 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 qualified ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.
- Prior to any tree removal, or approval of any grading or demolition permits (whichever occur first), the project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

With implementation of the identified mitigation measures, the project's impact to 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?

The majority of downtown San José is developed with buildings, pavement, and landscaping. Natural habitats are located within approximately 9,000 linear feet of the Guadalupe River and 3,750 linear feet of Los Gatos Creek that pass through the City.[10] The project site is located approximately 0.35 miles east of Guadalupe River and approximately 0.7 miles east of Los Gatos Creek. The Downtown Strategy 2040 FEIR concluded that impacts to developed habitats resulting from proposed development under the General Plan would be less than significant because of their abundance within the region and state, and the relatively low value of these habitats for biological resources compared to more natural habitats. As a result, implementation of the project would not adversely affect any riparian habitat or other 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 site is not located adjacent to either waterway noted above nor are there federally protected wetlands, as defined by Section 404 of the Clean Water Act, located on the project site. The proposed project would not have a substantial adverse effect on any wetland habitat. **[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 currently developed, and no natural habitats exist 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, the proposed project would not interfere with the movement of any fish and wildlife species. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

[10] City of San José. *City of San José Downtown Strategy 2000 Final EIR.*

The urban forest consists of planted landscape trees along residential and commercial streets and in landscaped areas at residences, local parks, in parking lots, and the perimeter of commercial and industrial developments. Within the City of San José, the urban forest is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

As mentioned previously, there are a total of 34 trees on and adjacent to the site, 32 of which are street trees. None of the trees on or adjacent to the site are native. Under the proposed project, 13 trees on and adjacent to the project site would be removed during project construction. Consistent with the General Plan, 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 Jose 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 consistent with the Downtown Strategy 2040 FEIR.

Standard Permit Conditions:

The project will be required to implement the following measures:

- Tree Replacement. Trees removed for the project shall be replaced at the ratios required by the City, as stated in Table 3.2-2 below, as amended:

Table 3.2-2: City of San José Standard 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

* x:x = tree replacement to tree loss ratio

** A 24-inch box replacement tree = two 15-gallon replacement tree

Notes: Trees greater than or equal to 38 inches in circumference measured at 54 inches above natural grade 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 permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter.

Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.

Eleven street trees and two on-site trees would be removed with implementation of the project. Of the 13 trees to be removed, four would be replaced at a 4:1 ratio, six would be replaced at a 2:1 ratio, and three would be replaced at a 1:1 ratio. There are no native trees on-site. The total number of replacement trees required to be planted is 31. The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

- **In-Lieu Mitigation.** If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:
  - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
  - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works building permit(s), in accordance to the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

- **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

In accordance with City policy, tree replacement would be implemented as shown in Table 3.2-2. Thus, the proposed project would exceed the tree replacement ratios required. The Downtown Strategy 2040 FEIR concluded that compliance with local laws, policies, and guidelines would reduce impacts to the urban forest to a less than significant level. **[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?

Based on the Habitat Agency Geobrowser, the project site is within the SCVHP area.[11] Private development in the SCVHP area is subject to the requirements of 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;[12]
- 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, or pond land cover types; or the project is located in unoccupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approvals 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)]**

[11] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed October 8, 2021. https://scv-habitatagency.org/193/GIS-Data-Keys-Maps.

[12] 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).

3.3 CULTURAL RESOURCES

3.3.1 Environmental Setting

The following discussion is based upon a Literature Search completed by Holman & Associates in February 4, 2021 and a Historic Resources Evaluation prepared by Treanor HL on April 6, 2022. A copy of the Archaeological Literature Search, which is a confidential document, is on file at the City of San José Department of Planning, Building and Code Enforcement and is available upon request with appropriate credentials. A copy of the Historic Resources Evaluation is included as Appendix D to this document.

3.3.1.1 *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.[13]

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 similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity

[13] 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.

that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

The General Plan includes the following cultural resources policies applicable to the proposed project.

Policy	Description
LU-13.8	Require new development alterations and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.15	Implement City, state, and federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
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-14.4	Discourage demolition of any buildings or structures 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 Buildings 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.
EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.[14] A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.
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 archaeological 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-10.2	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 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-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory, and preserve historic properties using a landmark designation process, require Historic Preservation Permits for alterations to properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

San José Historic Resources Inventory

Consistent with the City's Historic preservation ordinance, in 1975, the City developed an inventory of historically and architecturally significant structures. The inventory now includes approximately 4,000 properties.

[14] For reference a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

San José Downtown Historic Guidelines

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

3.3.1.2 *Existing Conditions*

Prehistoric 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.

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 missions 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. The project site is located approximately 0.23-mile east of Guadalupe River.

Based on the literature search completed for the project site, four recorded archaeological resources were identified within 0.25-mile of the project site, including one prehistoric and three historic-era resources. No resources were identified on the project site. However, based on the proximity of the project site to Guadalupe River and other known archaeological resources, the project site has moderate potential for buried prehistoric Native American resources.

Historic-Era 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 explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California led to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally near the old San José City Hall. Because the location was prone to flooding, 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 is located approximately 0.30 miles north of the project site.

Post-Mission Period to Mid-20th Century

In the mid-1800's the project area 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. A review of historic-era maps of the project site revealed that the project site was used as fields and pastures during the Hispanic period before being developed with commercial buildings along South 1st Street and two-story residences along South 2nd Street in the second half of the 1800s. The block on which the project site is located was fully developed by 1891 with low-rise wood frame and brick commercial buildings, and one-to-two-story, detached wood-frame dwellings. The commercial buildings were concentrated at the northwest quadrant of the block and included a boarding house, laundry, and a wood, hay, and coal yard at the intersection of East San Carlos Street and South 1st Street. The 1915 Sanborn map documents St. Paul's Church at the intersection of East San Carlos Street and South 2nd Street. The western half of the block had become heavily commercial by then, while the eastern half of the block remained residential. Most of the buildings were wood frame, with four brick stores along South 1st Street. The Sanborn map indicates some of the businesses on the block were secondhand furniture stores, a tin shop, a carpenter, a laundry, a tent factory, and a plumber. In 1915, the parcels at 300 South 1st Street contained (from north to south), a two-story brick commercial building, a one-story wood frame commercial building, a one- to two-story wood frame mixed-used building complex, and a two-story brick commercial building with four storefronts.

In 1931, a three-story Art Deco style building was constructed on the site and replaced most of the brick buildings that were on site at the time. The reinforced concrete building was designed as a department store called The Hale Brothers (later known as Hale's) by architects Binder & Curtis of San Jose and Swanson & Lane of Chicago and constructed by the Dinwiddie Construction Company of San Francisco. The adjacent one- and two-story brick buildings at 328-334 South 1st Street were also used in conjunction with the department store.

Originally known as O. Hale & Company, the San José mercantile institution was established in the late nineteenth century by Marshal Hale, Sr., Oliver Ambrose Hale, E. W. Hale, and J. Frank Davenport. Oliver A. Hale came to San Jose in 1876 and opened a small general store with his father at 140 South 1st Street. Together with his brothers, Oliver Hale established a chain of stores in California called Hale Brothers: the Sacramento store opened in 1880, the downtown San Francisco store in 1892, the Oakland store in 1906, another San Francisco store in the Mission District in 1925. The San Jose store moved to the newly built subject building at 300 South 1st Street in 1931. In 1949, they opened a television and appliance sales across the street at 308 South 2nd Street - a building also designed by Binder & Curtis. Hale's bought their Sacramento rival Winstocks Lubin & Co. in 1949, and then merged with the Los Angeles-based Broadway Department Stores, becoming Broadway-Hale Stores and then later Carter Hawley Hale Stores. The San José store at 300 South 1st Street closed in 1968.

In September 1969, Valley Title Company announced it would remodel the three-story building for multi-tenant office use to be completed in early 1970. The architect of the remodel was Allan

M. Walter and Associates, and the contractor was Carl N. Swenson Company. Valley Title used the entire basement for its title plant and the ground floor for its offices. The upper floors were converted to offices. The Art Deco facades of the building were altered to reflect the Modernist architectural style. According to the 1969 plans on file at the City of San Jose, it appears that the concrete base and the tile veneer were installed directly over the original finishes—likely resulting in damage on the surface. The plaster surrounds of the windows were also called out to have been removed. The adjacent brick buildings to the south were demolished, and the area was used as a pedestrian mall leading directly to the 250-car public parking lot. Valley Title remained in the building until the 1990s.

The building remained vacant until it was renovated by the architectural firm Reel Grobman & Associates of San Jose and contractors Toeniskoetter & Breeding Inc., and the San Jose Silicon Valley Chamber of Commerce and KBM Office Furniture moved to the building in 1998.

The project site is located within 0.25-mile of three recorded historic-era archaeological resources. Due to the proximity of the project site to known historic-era archaeological resources, and the potential for unrecorded archaeological resources on-site associated with the nineteenth century residences, the project site is identified as having high sensitivity for historic-era archaeological resources.

300 S. 1st Street

The three-story office building on-site was originally designed and constructed in the Art Deco architectural style in 1931 and extensively removed in the Modernist style. However, the building also includes elements characteristic of the brutalist style including massive block forms, facades composed of rectangular, large forms; deep-set windows as voids in the larger massing; and a flat roof.

The existing reinforced concrete building is rectangular in plan with a flat roof and a simple penthouse at the east side. Exterior walls are poured-in-place reinforced concrete with brick veneer on the second and third floors. The street-facing north and west facades are almost identical with arched arcades at the street level and repetitive deeply recessed rectangular windows framed by concrete panels on the upper floors. Two entrances, one at the northwest corner and another at the center of the west façade, feature glazed doors with transoms. On the north façade, the central arch is filled in. The entrance with double glazed doors and a transom at the east end is deeply recessed. A raised walkway from East San Carlos Street leads to the east façade which is mostly blind and features a painted mural. The south façade faces the parking lot. Another mural is painted on the east half of the ground floor. Five deep-set windows grouped on the western half of the façade penetrate the second and third floor walls.

NRHP/CRHR Evaluation

The existing three-story commercial building at 300 South 1st Street was evaluated against the NRHP and CRHR criteria for historical significance. If a project is found to be an eligible historic resource under the CRHR, it is also found to be eligible for listing in the NRHP.

The building was originally constructed in 1931 as a department store called Hale Brothers. The building is potentially eligible for listing on the NRHP and CRHR under Criterion A/1 at the local level for reflecting the early twentieth century development of the southern downtown core, and as a significant downtown San José department store. No persons of known historical significance appear to have been directly associated with the subject property. Therefore, the property is not eligible for listing on the NRHP or CRHR under Criterion B/2. The building was originally designed in the Art Deco style, but it was extensively remodeled in 1969-1970 in the Modern architectural style and it no longer exhibits the character-defining features of the Art Deco style in downtown San José or California. The remodel was carried out by architect Allan M. Walter & Associates and general contractor Carl S. Swenson Company. While Allan M. Walter & Associates is a recognized local architect, the firm is not considered a master architect. Carl N. Swenson Company is considered a master builder; however, this building is not among their influential works because it was neither innovative in use of materials or construction techniques nor expressed a particular phase in the development of the firm since it was among their many projects. For these reasons, the property is not eligible for listing on the NRHP or CRHP under Criterion C/3. Based on archival research conducted by TreanorHL for the project site, the 300 South 1st Street building does not have potential to yield information important to the prehistory or history of the surrounding area, California, or the nation. The property does not appear individually eligible for listing on the NRHP or CRHR under Criterion D/4.

In summary, the building is potentially eligible for listing on the NRHP and CRHR under Criterion A/1 at the local level for reflecting the early twentieth century development of the southern downtown core, and as a significant downtown San José department store. However, the building was substantially altered during two remodels in 1969-1970 and the 1990s and the adjacent commercial buildings that were part of the Hale Brothers department store were demolished. Therefore, the historic integrity of association, design, materials, workmanship, and setting have been lost and the property does not retain sufficient integrity to communicate its significance under Criterion A/1 for its defined period of significance of 1931 – 1968.

City of San José City Landmark Evaluation

The existing three-story office building at 300 South 1st Street was evaluated against the City of San José's Landmark Designation criteria for historical significance. The evaluation of the building against each of the eight criterion is discussed below.

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;

   The Hale Brother's department store was constructed in 1931 as part of the expansion of the downtown commercial core. The building no longer represents this period in local history since it has not been used as a department store since 1968 and it was

substantially altered in 1969-1970 and the adjacent commercial buildings that were part of the Hale Brothers department store were demolished. Therefore, the building is not eligible as a City Landmark under Criterion 1.

2. Its location as a site of a significant historic event;

   The building is not linked specifically to any significant historic events and is not eligible as a City Landmark under Criterion 2.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;

   There is no person of significance individually associated with the building. For this reason, the building is not eligible as a City landmark under Criterion 3.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

   The building was constructed as Hale Brothers, a prominent family-founded and -run department store which was an important part of downtown San José since the late nineteenth century. However, the building no longer exemplifies the cultural, economic, and social heritage of downtown San José since the building was substantially altered in 1969-1970 for multi-tenant office use and in the 1990s and the adjacent commercial buildings that were part of the Hale Brothers department store were demolished. Therefore, the building is not eligible as a City Landmark under Criterion 4.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

   Although the building illustrates some features of the Modernist commercial architecture, it building does not portray the environment of a group of people in an era of history through its architectural style. The building is not eligible as a City Landmark under Criterion 5.

6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

   The building does not embody distinguishing characteristics of an architectural type or specimen. It no longer embodies Art Deco style or distinguishing characteristics of an early twentieth century department store building and does not stand out as a noteworthy example of a 1970s multi-tenant office building. The building is not eligible as a City Landmark under Criterion 6.

7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;

   The Hale Brothers department store was originally designed by local master architect Binder & Curtis and constructed in 1931 by master builders Dinwiddie Construction

Company; however, the building was substantially altered in 1969-1970 for multi-tenant office use and in the 1990s and the adjacent commercial buildings that were part of the Hale Brothers department store were demolished. Therefore, the building no longer retains its original architectural details or its Art Deco style. The significant remodel was carried out by architects Allan M. Walter & Associates and general contractors Carl S. Swenson Company. Allan M. Walter & Associates is not considered a master architect and while Carl S. Swenson Company may be considered a master builder, the remodel was neither innovative in use of materials or construction techniques nor expressed a particular phase in the development of the company. The building is not eligible as a City Landmark under Criterion 7.

8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

   Typical building materials and details of the time were used in the 1969-1970 remodel, and it is not an example of architectural innovations. Therefore, the building is not eligible as a City Landmark under Criterion 8.

In summary, the building at 300 South 1st Street is not eligible as a City of San José Landmark because it is not identified or associated with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, or important work or vestige.

Historic Resources in Project Vicinity

A reconnaissance survey of buildings in the project vicinity was completed to determine if there are any historic resources in close proximity to the project site that could be adversely impacted by the proposed project. The survey found 17 age-eligible properties within 200 feet, including eight buildings listed on the Historic Resources Inventory. Table 3.3-1 includes a list of these historic resources included in the Historic Resources Inventory within 200 feet of the project site and Figure 3.3-1 shows their location in relation to the project site.

Table 3.3-1: Historic Resources within 200 Feet of Proposed Project

Name	Location and Distance to Project Site	Status	Description
BoTown/Sambos Restaurant	409 South 2nd Street	SM. CCL	Google style coffee shop, built 1967
Boschken Garage	400 South 1st Street	SM	Moto Company, night club and theater, built 1913
Eulipia Restaurant	374 South 1st Street	CS	Brick commercial building, built circa 1915
Boschken Building	374-349 South 1st Street	SM	Renaissance Revival, built 1918
Fox California Theater	345 South 1st Street	ENR, ECR, CLS	Spanish Baroque, built circa 1927

Dohrman Building	325 South 1st Street	NRS, CR, CLS, CS	Renaissance Revival, built circa 1926
St. Claire Building	301 South 1st Street	ENR, ECR, CLS	Renaissance Revival, built 1925
St. Claire Hotel	302 South Market Street	NRS, CR, CLS	Spanish-Italian, Renaissance Revival, built circa 1926

Note: NRD = National Register District; NRS = National Register Site/Structure; ENRD = Eligible for National Register District; ENR = Eligible for National Register (individually); SL = State Landmark; CR = California Register Site/Structure; ECRD = Eligible for California Register District; ECR = Eligible for California Register (individually); CLD = City Landmark District; CLS= City Landmark Site/Structure; CCL = Candidate City Landmark; CNS = City Conservation Area; CS = Contributing Site/Structure; NCS = Noncontributing Site/Structure; SM = Structure of Merit; IS = Identified Site/Structure

Source: City of San José. Historic Resource Inventory. Accessed September 3, 2021.

As noted above in Table 3.3-1, there are eight buildings within 200 feet of the project site that are included on the San José Historic Resources Inventory. Of these eight buildings, four (Fox California Theater, Dohrman Building, St. Claire Building, and St. Claire Hotel) are designated San José City Landmarks, and are either listed on or eligible for listing on the NRHP and the CRHR.

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, would the project:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
c) Disturb any human remains, including those interred outside of dedicated cemeteries?

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

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

LOCATION OF NEARBY HISTORIC STRUCTURES | FIGURE 3.3-1

3.3.2.1 *Project Impacts*

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

On-Site Resources

The existing three-story office building at 300 South 1st Street is listed in the Historic Resources Inventory as a Structure of Merit. The property was evaluated by TreanorHL to determine its eligibility for listing on the NRHP, CRHP, and as a Candidate City Landmark. As discussed in Section 3.3.1.2 Existing Conditions above, the building was substantially altered during two remodels in 1969-1970 and the 1990s and the adjacent commercial buildings that were part of the Hale Brothers department store were demolished. Therefore, the historic integrity of association, design, materials, workmanship, and setting have been lost and the property does not retain sufficient integrity to communicate its significance under Criterion A/1 for its defined period of significance of 1931-1968. The building is also not eligible as a City of San José Landmark because it is not identified or associated with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way and it is not identified as, or associated with, a distinctive, significant or important work or vestige.

The proposed project would demolish the building at 300 south 1st Street; however, the building is not eligible for listing as a historic resource in local, state, or federal inventories. Therefore, the building at 300 South 1st Street is not considered a historical resource under CEQA and the project would not cause a substantial adverse change in the significance of an on-site historic resource.

Nonetheless, consistent with the City standard procedures, the following Standard Permit Condition is included in the project to document the existing office building as a Structure of Merit.

Standard Permit Condition:

- Prior to issuance of any demolition permit for the 58,362-square foot building (formerly Hale Brother's Department Store) located at 300 S. 1st Street, a qualifying Structure of Merit, photo-documentation consisting of selected views of the building for research and archival use shall be taken under the following standards:
    - Cover sheet—The documentation shall include a cover sheet identifying the photographer, providing the address of building, significance statement, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
    - Camera—A 35mm camera or comparable.
    - Lenses—No soft-focus lenses. Lenses may include normal focal length, wide angle and telephoto.
    - Film—Color film is recommended.
    - View—Perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural

and/or engineering features of the structure. Detailed photographs of character-defining features shall be included.

- Lighting—Sunlight is preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
- Technical—All areas of the photograph must be in sharp focus.
- Digital Form—All photographs shall be provided in print and digital form

The project applicant shall coordinate the submission of the photo-documentation, including the original prints and negatives, to History San José. Digital photos shall be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and submitted with the above documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted as a standard measure to address the loss of the Structure of Merit, which shall be named and the address stated, in coordination with the City's Historic Preservation Officer.

Off-Site Resources

The Historic Resources Evaluation prepared by Treanor HL in April 2022 also included a reconnaissance survey to identify historic resources within 200 feet of the project site and a compliance review of the proposed project design in relation to those identified historic resources. The City's Downtown Design Guidelines and Standards provide a framework for design review aligning with the goals and policies of the General Plan and Historic Preservation Ordinance so that proposed development can respond to prominent characteristics and patterns of historic context buildings to improve the building's fit within the context. According to the Downtown Design Guidelines and Standards, a project is considered to have historic adjacency and requires evaluation for consistency with the guidelines and standards if it meets one of three criteria: 1) At least 50 percent of buildings within 200 feet of a resource are eligible or listed on the San José Historic Resources Inventory; 2) The site is located within 100 feet of a Designated or Candidate City Landmark or contributor to a district or conservation area; 3) The site is adjacent to a historic building on the Historic Resources Inventory or eligible for listing on the Historic Resources Inventory.

As shown in Table 3.2-1 and Figure 3.3-1, the project site is located within 100-feet of three designated City Landmarks, and is adjacent to one building identified on the San José Historic Resources Inventory as a Contributing Site/Structure (374 South 1st Street). Therefore, the project qualifies for historic adjacency. The project's potential to impact these historic resources is discussed in Table 3.3-2, below.

Table 3.3-2: Summary of Conformance with Downtown Design Guidelines and Standards	
Design Guidelines	**Summary of Compatibility Analysis**
4.2.2 Massing Relationship to Context. Create massing transitions between high-rises and lower-scale development	

Height transition. If a new building 100 feet tall or more is across the street from or adjacent to a historic building 45 feet tall or less, the new building must step back its front façade five feet minimum from the front parcel or setback line at an elevation between 25 and 50 feet.	The proposed development is across the street from two historic buildings (409 South 2nd Street and 347-349 South 1st Street). The project features two 301-foot towers. Relative to the main massing, the north tower's west façade facing South 1st Street and the south tower's south façade facing East San Salvador Street step back approximately five feet from the property line above level three. As proposed the project complies with this standard.
Width transition. If a new building is across the street from or adjacent to a historic building that is both 45 feet tall or less, and more than 30 feet narrower than the new building, the new building must create gaps in the Podium Level above the ground floor to divide its street-facing massing into segments no more than 30 feet wider than the widest of the appliable historic buildings.	The proposed project is across the street from two historic buildings on South 1st Street and East San Salvador Street which are less than 45 feet tall and more than 30 feet narrower than the new building. The South 1st Street facing west façade of the north tower does not create gaps in the podium level above the ground floor however, it is broken into multiple narrower segments by use of concrete columns and glazing and at the Orchard Market section, the façade is articulated by double-height vertical dividers above the ground floor. Facing East San Salvador Street, the south façade of the south tower does not create gaps in the podium level above the ground floor. However, it still divides its street-facing massing into narrower segments at the podium level by setting back the façade at various depths for the vehicle and pedestrian entrances. Even though the towers' ground floors are divided into narrower sections, overall the project does not divide its street-facing massing into segments by creating gaps in the podium level above the ground floor. Therefore, the project is not consistent with this standard.
Rear transition. If a new building 100 feet tall or more is across a parcel line interior to a block from a historic building that is 45 feet tall or less, the rear portion of the new building must maintain a transitional height of 70 feet or less within the first 20 feet from the property line.	The south tower is across an interior block parcel line from the historic building at 374 South 1st Street which is less than 45 feet tall. The new building does not maintain a transitional height; however, it is set back a minimum of 20 feet from the property line creating a pedestrian paseo along the west property line; therefore, the building is consistent with this standard.
4.2.4 Historic Adjacency. Incorporate essential urban and architectural characteristics of historic context.	

Massing. Relate podium level building massing to the scale of Historic Context buildings by breaking a large building into masses of similar scale to Historic Context building.	The proposed building has a 27-foot-tall podium, which relates to the scale of the historic context buildings on South 1st Street and East San Salvador Streets. The proposed project features two towers connected at the podium level. On the west (South 1st Street) façade, the podium level is broken into multiple sections: the retail/lobby area, the storefronts and entrances to the market hall. The East San Salvador Street facing south façade's podium level is divided into narrower sections by the protrusion and regression of the façade surface as well as material changes. For these reasons, the building is consistent with this standard.
Design buildings with rectilinear rather than curved and diagonal forms where rectilinear forms are typical of Historic Context buildings.	As shown in Figures 2.2-5 through Figure 2.2-8, the proposed building would have a rectilinear shape and would, therefore, be consistent with this standard.
Use cornice articulation at the Podium level at a height comparable to the heights of Historic Context buildings.	The new building does not have a typical cornice articulation but provides a defined podium level. The two-story high storefront assemblies are clearly differentiated from the upper floors which are articulated with projecting planters, balconies and greenery. The podium height is appropriate as compared to the height of the historic context buildings. For these reasons, the project is consistent with this standard.
Maintain Streetwall Continuity with Historic Context buildings that are on the same side of the same street by placing the street-side façade of a new building within five feet of the average Historic Context building Streetwall distance from the front property line.	The historic context buildings that is on the same side of the street as the proposed project is 374 South 1st Street which is built out to the property line without any setback. No historic context buildings are on the same side of East San Carlos Street, East San Salvador Street, and South 2nd Streets as the proposed project. The new development has an articulated streetwall on the south facing west façade which is set back approximately five to 11 feet. The project also proposes plazas along this street which disrupts the typical continuous streetwalls. Overall, the setbacks on the west facade exceed the recommended streetwall distance. As proposed, the project is not compatible with this standard.
Façade. Use articulation that creates façade divisions with widths similar to Historic Context buildings on the same side of the same block (if the new building is wider).	The new building is significantly wider than the historic context building on South 1st Street. The podium level of the west façade is divided into narrower segments by storefront divisions and concrete columns. Even though the tower

	above is articulated to create approximately 30-foot-wide sections by using projecting planters and balcony boxes, the tower appears monolithic above the podium level. As proposed, the project is compatible with this standard.
Do not simulate historic architecture to achieve these guidelines and standards	The new building is contemporary in design and does not simulate historic architecture. Therefore, the proposed project is compatible with this standard.
Place windows on facades visible from the windows of the adjacent Historic Context buildings even if this requires that the façade be set back from the property line.	The proposed building includes windows on all exterior walls which are visible from the windows of adjacent historic context buildings. Therefore, the proposed project is compatible with this standard.
Elements. Use some building materials that respond to Historic Context building materials.	The historic context buildings and the nearby historic resources mainly use stucco, brick and terra cotta, metal, wood, and glass on the exterior. The proposed building mainly uses metal, concrete, stone, wood, and glass; therefore, it is compatible with this standard.
The new materials should be compatible with historic materials in scale, proportion, design, finish, texture and durability.	The new materials appear to be compatible with the historic materials in scale, proportion, design, finish, texture, and durability. Therefore, it is compatible with this standard.
Ground Floor. Space pedestrian entries at similar distances to Historic Context building entries.	The St. Claire Building and 374 South 1St Street have multiple pedestrian entries on South 1st Street, while the Boschken Building, Fox Theater, and Dohrman Building have one pedestrian entry each. The west façade of the north towers has multiple pedestrian entries opening to South 1st Street that are approximately 25 to 45 feet away from each other, similar to the historic context building entries. The south 409 South 2nd Street building has a single pedestrian entry and 400 South 1st Street has only a secondary entry on East San Salvador Street. The south façade of the south tower has one pedestrian entry to the retail space and one secondary entry to the stairs, so it is consistent with the existing conditions and is compatible with this standard. Overall, the proposed project is compatible with this standard because it places entries at similar distances to historic context buildings.

Create a ground floor with a similar floor to ceiling height as nearby Historic Context buildings.	The historic context buildings on South 1st Street are one to five-story buildings with tall ground floor housing lobbies or commercial spaces. At 27 feet, the podium level of the proposed building would be taller than the ground floors of the historic context buildings; however, the proposed ground floor is still comparable to the height of nearby buildings. As proposed, the project is compatible with this standard.

In summary, while the proposed project is not fully in conformance with the Width transition, Massing, and Façade standards of the Downtown Design Guidelines and Standards, the project is substantially compliant with the standards. Therefore, the proposed project would not impair the significance and integrity of any off-site historical resources or cause an indirect adverse impact on historical resources under CEQA.

Construction-Related Impacts

The impacts of project construction on historic resources are discussed in detail in Section 3.3 Noise of this SEIR and concluded that vibration impacts would be less than significant with implementation of measures identified in and required by the Downtown Strategy 2040 FEIR.

Impact CUL-1: The project would result in significant construction-vibration related impacts to nearby historic era buildings approximately five feet from the project site.

Mitigation Measure: See mitigation measure MM NOI-2.1.

With implementation of mitigation measure MM NOI-2.1, which is consistent with measures identified and required of development in the Downtown Strategy 2040 FEIR, project-related construction-vibration impacts would be reduced to a less than significant level.

The project proposes demolition of the existing office building located at 300 South 1st Street. The building is not eligible for listing as a historic resource in any local, state, or federal inventories. The building is listed as a Structure of Merit in the Historic Resources Inventory, which is considered a structure of lesser significance, but the building is not considered a historical resource under CEQA. Therefore, the project would not cause a substantial adverse change in the significance of an on-site historic resource.

The project site does not contain historic resources. The project would result in construction of a new 20-story commercial building within 100-feet of three designated City Landmarks, and adjacent to one building listed in the San José Historic Resources Inventory as a Contributing Structure (374 South 1st Street) which is not considered a historical resource under CEQA. The project is not located in a historic district and is substantially compliant with the Downtown Design Guidelines and Standards. The proposed project would not impair the significance or historic integrity of the individually listed City Landmarks located across the street from the project site or result in construction-related vibration impacts to off-site historical resources. Therefore, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA

Guidelines Section 15064.5. **[New Less than Significant Impact with Implementation of Mitigation Measure (No Impact)]**

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

Prehistoric and Historic Resources

Policy ER-10.1 of the General Plan states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. The project site is located within 0.25 miles of known pre-historic and historic-era cultural resources. The entire site would be excavated to a depth of 55 feet to accommodate the four-level below-grade parking garage. As a result, project ground disturbing activities could impact previously unrecorded archaeological resources.

The following Standard Permit Condition would be implemented to reduce impacts to unrecorded archaeological resources.

Standard Permit Conditions:

- 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 in consultation with a Native American representative registered with the Native American Heritage Commission 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 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.

Given the location of the site, and known historic development of the project area, the project has high potential for uncovering as yet unrecorded archaeological resources. Even with implementation of the above standard measures, the site-specific archaeological resources report prepared for the project identified the potential for archaeological resources to be found on-site and the following additional measures would be required to reduce potential impacts to unrecorded archaeological resources.

Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.

Mitigation Measure:

The following mitigation measures shall be implemented to reduce impacts to archaeological resources that may be present on the site.

MM CUL-2.1: **Cultural Sensitivity Training.** Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by the qualified project 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.

MM CUL-2.2: **Preliminary Investigation.** Prior to the issuance of any demolition, grading or building permits, including grading and potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology, in consultation with a Native American representative registered with the Native American Heritage Commission 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, shall complete a subsurface exploration at the site, to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically excavated below existing stratigraphic layers to evaluate the potential for Native American and historic era resources. If any archeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations, shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee for review and approval prior to issuance of any grading permit. If deemed necessary, based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CUL-2.4 shall be prepared by a qualified archaeologist, in consultation with a Native American representative registered with the Native American Heritage Commission 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. If no evidence of historic era resources are found during the preliminary investigation, then monitoring of all construction-related ground disturbing activities will be required as described in MM CUL-2.3.

MM CUL-2.3: **Sub-Surface Monitoring.** If no evidence of historic era resources are found during the preliminary investigation, a qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission 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, shall be present during applicable earthmoving activities including, but not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping. If evidence of historic era resources are found during monitoring, then an archaeological resources treatment plan (as described in MM CUL-2.4) shall be prepared by a qualified archaeologist, in consultation with a Native American representative registered with the Native American Heritage Commission 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.

MM CUL-2.4: **Treatment Plan.** If required pursuant to the MM CUL-2.2 or CUL-2.3, a qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission 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, and which consulted on the project, shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement or Director's designee prior to approval of any grading permits. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Monitoring schedules and individuals
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information)
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Security approaches or protocols for finds.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

- The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Once implementation of the Treatment Plan is complete, no further mitigation is required on the project site.

MM CUL-2.5: **Evaluation.** The project applicant shall notify the Director of Planning, Building,

and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee.

With implementation of standard permit conditions and Mitigation Measures MM CUL-2.1 through MM CUL-2.5, the project would not result in a significant impact to archaeological resources. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

As discussed under criterion b, the project site has a moderate to high potential for subsurface resources. Because the project is within an archaeologically sensitive area for prehistoric occupation near historic waterways, it is possible that Native American human remains could be located in the area. Excavation of the site could uncover as yet unrecorded burials.

Standard Permit Condition:

Consistent with the City's General Plan Policy ER-10.2, the following standard permit condition is included in the project to reduce or avoid impacts to subsurface cultural resources.

- 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.

With implementation of the above Standard Permit Condition, redevelopment of the project site would have a less than significant impact on subsurface cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.3.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative cultural resources impact?

The geographic study area is the project site and surrounding area (within 1,000 feet of the project site).

Historic Structures

As mentioned previously, the existing three-story office building on the project site is not eligible for listing in the NRHP, CRHP, or as a Candidate City Landmark and does not qualify as a historical resource under CEQA. For this reason, the loss of this building would not be cumulatively considerable. **[New Less than Significant Cumulative Impact (Cumulative Significant Unavoidable Impact)]**

Subsurface Resources

With implementation of the Standard Permit Conditions and mitigation measures, impacts to subsurface resources would be less than significant. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not have a cumulatively considerable impact on subsurface archaeological resources. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

3.4 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment from AEI in February 2021. A copy of this report is included in Appendix G.

3.4.1 Environmental Setting

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.[15]

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 authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[16]

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).[17]

[15] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed October 8, 2021. https://www.epa.gov/superfund/superfund-cercla-overview.
[16] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed October 8, 2021. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[17] California Environmental Protection Agency. "Cortese List Data Resources." Accessed May 28, 2020. https://calepa.ca.gov/sitecleanup/corteselist/.

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 phased out use of friable asbestos products between 1973 and 1978. 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.

Regional and Local

Municipal Regional Permit Provision C.12.f

PCBs were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater NPDES) Permit MRP by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[18] Beginning July 1, 2019, all applicants for a demolition permit or any other permit that involves the demolition of a building must submit a Screening Assessment Form with their building permit application in San José.[19]

Envision San Jose 2040 General Plan

The General Plan includes the following hazards and hazardous materials policies applicable to the proposed project.

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present use to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.4	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-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
EC-7.5	In 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.
EC-7.8	When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

[18] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.
[19] City of San José. "Demolition Permit Application – Managing PCBS." Accessed November 10, 2021. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/stormwater/demolition-permit-application

EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation of dispersion of dust and sediment runoff.
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 navigation.
TR-14.3	For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San Jose International and Reid-Hillview airports.
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.

3.4.1.1 *Existing Conditions*

The project site is currently developed with a three-story, approximately 58,362-square foot commercial office building and a 95,000-square foot paved surface parking lot. Groundwater on-site is estimated at a depth of 12 to 16 feet bgs. Fluctuations in groundwater levels may occur due to seasonal changes, variation in rainfall, and underground drainage patterns. Groundwater in the project area flows in a northeasterly direction.

Historic Uses of the Project Site and Surrounding Land Uses

According to a review of historic aerial photographs and fire insurance maps, the project site has been developed since at least the 1880's. Between 1884 and 1891, the northeastern portion of the project site, along South 2nd Street was developed with residences and accessory structures while the western portion of the project site along South 1st Street was developed with commercial buildings. Commercial tenants identified at the projects site included professional offices, a drug store, warehouse, electrical shop, hay and coal yard, bakery, and laundry businesses. Following construction of St. Paul's Church on the northeastern portion of the project site in 1915, land uses on-site remained the same until 1931 when the existing commercial buildings were demolished, and the current commercial building was constructed at the corner of South 1st and East San Carlos Streets. In 1935 a gas station was identified in the eastern portion of the project site at 375 South 2nd Street. By 1939, the commercial building at South 1st and East San Carlos Streets was occupied by a Sears & Roebuck department store and a parking lot was developed in the northeast portion of the site to serve that store. Between approximately 1950 and 1962, the parking lot was expanded and used for the Sears & Roebuck auto service shop and oil storage. By 1963, the parking lot was expanded to its current size and development on-site has remained the same to the present day.

On-Site Sources of Contamination

The project site is listed in the Geotracker database as a closed LUST case due to leaks associated with a 2,500-gallon UST located within the basement of the existing commercial building on-site. In 1992, residual petroleum-based heating oil stored within the UST was displaced when a waterline burst and flooded the basement. The water and oil mixture was subsequently pumped out of the building and all damaged items were repaired by the building owner. In 2010, elevated levels of petroleum hydrocarbon were detected in soils beneath the basement slab suggesting minor heating oil impacts to shallow subsurface soils. On July 13, 2010, the UST was cleaned and filled in place and SCCDEH and RWQCB issued a case closure for the UST, requiring no further action. However, according to the case closure letter, "Residual contamination in soil and groundwater remains at the site that could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installment of water wells." The Phase I ESA identified the LUST case as a Controlled Recognized Environmental Condition.

In addition, as previously noted, historic uses at the project site included laundry, dyeing and cleaning businesses and auto-related uses between approximately 1891 and 1955. Although no records of releases associated with these uses were found, due to the nature of these businesses and the time in which they operated at the project site, hazardous materials/wastes and USTs may be present beneath the site. In 2019 a Limited Phase II Soil, Soil Vapor, and Groundwater investigation was completed to assess the presence and extent of contamination at the site in connection with these historic uses. The 2019 study identified TPHd, TPHg, and xylene in soil, ethylbenzene, xylenes, and PCE, TPH and oil in groundwater, and TPHg, benzene in soil vapor above their respective environmental safety limits. However, sampling locations did not cover the full extent of the project site, leaving remaining areas which would be disturbed by the proposed project uninvestigated. Therefore, based on the uninvestigated areas, the reported exceedances above current safety limits, and the potential for vapor migration, the Phase I ESA identified past uses as a Recognized Environmental Condition.

Asbestos Containing Materials and Lead-Based Paint

Due to the age of the existing three-story commercial building (constructed in 1931), ACMs and lead-based paint (LBP) are likely present on-site.

3.4.1.2 *Off-Site Sources of Contamination*

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

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's hazards and hazardous materials impacts, would the project:

a) Cause a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
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 have a less than significant hazards and hazardous materials impact with implementation of Standard Permit Conditions and mitigation measures, as described below.

3.4.2.1 *Project Impacts*

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

The Downtown Strategy 2040 FEIR disclosed that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. Operation of the proposed commercial building would include the use and storage of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and materials would not create a significant hazard to the public or environment. Therefore, consistent with the conclusions in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant impacts with respect to routine transport, use, and 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?

As mentioned previously, historic uses on the site represent a Recognized environmental Condition and the project site is listed on the Geotracker database for a closed LUST case with a closure letter stating that "residual contamination in soil and groundwater … could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installment of water wells." The proposed project would include grading and excavation during construction of the proposed commercial building and below-grade parking garage which could result in impacts to construction workers from exposure to contaminated soils and groundwater. Due to detections of contaminants above regulatory environmental screening levels, the project would be required to apply the following mitigation measures, consistent with Downtown Strategy 2040.

Impact HAZ-1: Development of the proposed project could result in impacts to construction workers from exposure to contaminated soils, soil gas and groundwater due to previous use.

Mitigation Measures: The following mitigation measures would be required to reduce impacts to construction workers to a less than significant level, consistent with the Downtown Strategy 2040 FEIR.

MM HAZ-1.1: **Geophysical Survey.** Consistent with the recommendations of the Phase I ESA completed for the proposed project, prior to the issuance of any demolition, grading, or building permits, the project applicant shall retain a qualified environmental professional to perform a geophysical survey of the project site to determine the presence and extent of hazardous materials, USTs, in-ground lifts, clarifiers, or drains associated with historic uses of the project site. Prior to issuance of grading permits, the results of the geophysical survey shall be presented to the City's Environmental Compliance Officer for review and approval.

MM HAZ-1.2: Prior to the issuance of any grading, demolition, or building permits (whichever occur first), the project applicant shall obtain regulatory oversight from the Regional Water Quality Control Board, Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared under regulatory oversight and approval by a qualified environmental consultant that identifies remedial measures and/or soil management practices, as determined by the regulatory oversight agency, to ensure construction worker safety and protect the health of future occupants. The plan and evidence of regulatory oversight 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.

With implementation of the identified mitigation measures, redevelopment of the project site would not expose construction workers to on-site or off-site contamination sources. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Asbestos-Containing Materials and Lead-Based Paints

The project proposes to demolish the on-site building, which may include materials that contain ACMs and LBPs. During demolition, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos. If the LBP is still bonded to the building materials, its removal is not required prior to demolition.

If the LBP is flaking, pealing, or blistering, it should be removed prior to demolition. It will be necessary to follow applicable OSHA regulations and any debris containing lead must be disposed of appropriately. Demolition of the existing commercial building could expose construction workers or occupants of adjacent buildings to harmful levels of ACMs or lead.

The project is required to implement the following Standard Permit Conditions to reduce impacts due to the presence of ACMs, and/or LBP:

Standard Permit Conditions:

1. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of ACSMs and/or LBP.
2. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
3. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
4. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
5. Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Polychlorinated Biphenyls

PCBs in building materials could be released during demolition of the existing three-story office building and thereby exposed to stormwater runoff from the project site during rain events. To address this risk, applicants for a demolition permit must submit a PCB Screening Assessment Form

with their permit application.[20] The form is designed to ascertain whether or not the building targeted for demolition is subject to the PCB Screening Assessment. If the on-site building does contain PCBs that exceed threshold limits, the project applicant must follow applicable federal and state laws, which may include reporting to such agencies as the EPA, RWQCB, and DTSC, which may require additional sampling and abatement of PCBs.

[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 nearest school to the project site is Notre Dame High School, located approximately 860 feet southeast of the project site at 569 South 2nd Street. If unproperly managed, project ground disturbing activities have the potential to expose nearby receptors, including those at Notre Dame High School to hazardous materials. However, with implementation of the mitigation measures identified in Impact HAZ-2, impacts associated with release of hazardous materials during project construction would be less than significant.

Further, as noted above, operation of the proposed commercial building would not result in routine transport, use, and disposal of hazardous materials such that significant impacts would occur with respect to emissions or handling of hazardous materials within one-quarter mile of a school. For these reasons, impacts would be less than significant. **[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?

As mentioned in Section 4.9.1 and under Impact HAZ-2 above, the project site is included on the Geotracker database as a closed LUST case with a closure letter stating that "residual contamination in soil and groundwater … could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installment of water wells." Therefore, grading and excavation associated with the proposed project could result in impacts to construction workers from exposure to contaminated soils and groundwater during construction. As noted in Impact HAZ-2 above, the proposed project would implement the identified mitigation measures. With incorporation of these mitigation measures, impacts related to hazards would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)**

[20] City of San José Department of Planning, Building and Code Enforcement. Draft Bulletin #254. February 6, 2019.

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?

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 reflective surfaces, flashing lights, electronic interface and other potential hazards to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by a set of imaginary surfaces radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground.

At a proposed maximum height of 301 feet above ground, the project is required to be reviewed by the FAA for FAR Part 77 conformance. General Plan Policies TR-14.2 require FAA issuance of a No Hazard determination prior to development approval, with any conditions set forth in an FAA No Hazard determination also incorporated in the City's project approval. General Plan Policy TR-14.4 requires 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.

The project is not located in the Norman Y. Mineta San José International Airport Influence Area (AIA) and is not subject to the Santa Clara County Comprehensive Airport Land Use Plan (CLUP).[21] The project would be required to follow all applicable General Plan policies (including General Plan Policies TR-14.2 and TR-14.3), regulations, and procedures.

Standard Permit Conditions:

- **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 Determinations of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications.

The project would not result in a substantial safety hazard for people residing or working at the project site. **[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 project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. The proposed project would not impair or interfere with

[21] Walter B. Windus, P.E. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport.* May 2011. Accessed February 19, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf

the implementation of the City's Emergency Operations Plan or any statewide emergency response or evacuation plans. **[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 is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.4.3 Non-CEQA Effects

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

As mentioned previously, on-site soil may contain TPHd, TPHg, and xylene, groundwater may contain ethylbenzene, xylenes, and soil vapor may contain PCE, TPH, and benzene. Based on the Phase I ESA, it is recommended that soil, soil vapor, and groundwater sampling be analyzed to confirm current contaminant levels on-site and determine the extent to which contamination is present throughout the site.

In addition, the project site would be excavated to a depth of approximately 55 feet bgs which would encounter groundwater. The proposed project would be built and maintained in accordance with a site-specific geotechnical report which will be prepared and submitted to the City of San José Public Works Department for review and approval prior to the issuance of any grading or building permits. As a result, the proposed project would not result in human health and environmental hazards to future site users consistent with Policy EC-7.2.

3.5 NOISE

The following discussion is based upon a Noise and Vibration Analysis prepared by Illingworth & Rodkin, Inc. on March 11, 2022. The report is included in Appendix H of this document.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

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.[22] 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 is 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.

3.5.1.2 *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

[22] 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}.

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.

California Green Building Standards Code

For commercial uses, CalGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA 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.

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 3.5-1 below.

Table 3.5-1: Land Use Compatibility Guidelines for Community Noise in San José

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

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

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

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

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

In addition, the General Plan includes the following policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown below.

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 or more 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 Environmental General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> 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. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels 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-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code
EC-1.7	Construction operations within San José will be required 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

	in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-2.1	Near light and heavy rail lines or other sources of groundborne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features to reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 inch/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 inch/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

3.5.1.3 *Existing Conditions*

Existing ambient noise levels at the project site result primarily from vehicular traffic along South 1st Street, West San Carlos Street, and South Market Street. VTA trains run frequently between the hours of 4:30 a.m. and 12:30 a.m. daily and sound warning bells near the site. Distant traffic along Intersection (I-) 280 and State Route (SR) 87 and overhead aircraft associated with the Mineta San José International Airport (approximately 2.5 miles northwest of the project site) also contribute to the noise environment in the area. The project lies within the 60 to 65 dBA CNEL 2037 noise contour for the airport.[23]

Due to the COVID-19 pandemic, traffic volumes along the surrounding roadways were reduced from typical conditions. A noise monitoring survey was not completed to quantify ambient noise levels because resultant noise levels would not be representative of typical ambient conditions. However, the project site and the surrounding area falls within the plan area for the Downtown San José Strategy 2040 for which noise measurements were taken in 2018.[24] The existing noise environment has not changed substantially since certification of the Downtown Strategy 2040 FEIR, therefore, noise measurements taken during preparation of the Downtown Strategy 2040 FEIR represent the best available data for existing ambient conditions at the project site. Measurements and noise contours generated for the Downtown Strategy Plan were reviewed to establish the existing noise environment. Table 3.5-2 shows the existing ambient noise levels in the project vicinity including the results of ambient noise measurements made for the Downtown Strategy 2040 FEIR. Figure 3.5-1 shows the location of the noise measurements in relation to the project site.

[23] City of San José. *Draft Environmental Impact Report for the Amendment to the Norman Y. Mineta San José International Airport Master Plan. SCH #2018102020.* November 2019. Page 279, Figure 4.13-4. Certified April 28, 2020.
[24] City of San José, "Downtown San José Strategy Plan 2040 Environmental Impact Report," December 2018.

Table 3.5-2: Existing Ambient Noise Levels			
Noise Measurement Location	**dBA DNL**	**Daytime dBA L_{eq}**	**Nighttime dBA L_{eq}**
Long-Term Noise Measurements			
35 feet from centerline of South 1st Street	70	64 to 72	58 to 69
Traffic Noise			
75 feet from centerline of South 1st Street	70	69	69
75 feet from centerline of East San Carlos Street	64	63	63
Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Noise and Vibration Assessment, San Jose, California*. March 11, 2022.			

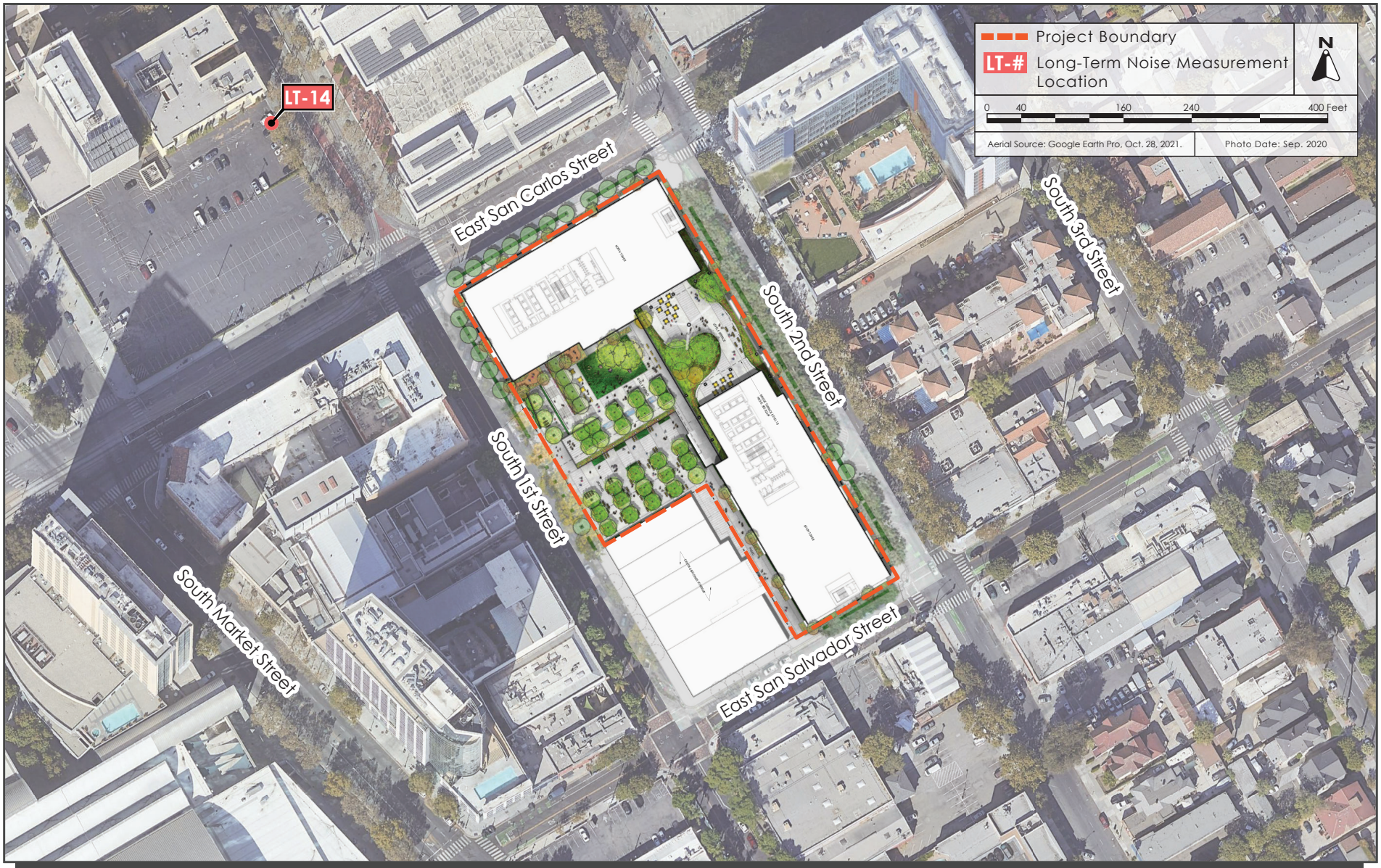
3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, 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, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 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



NOISE MEASUREMENT LOCATION | FIGURE 3.5-1

standard.[25] 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. According to the General Plan policies, a 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 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 with Standard Permit Conditions and project-specific mitigation measures incorporated, consistent with the Downtown Strategy 2040 FEIR as described below.

[25] Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Noise and Vibration Assessment, San Jose, California*. March 11, 2022.

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 Noise Impacts

As noted in Section 2.2, Project Description, project construction would occur over a period of 42 months. During this time, construction activities would occur between 7:00 a.m. and 10:00 p.m. on weekdays and from 7:00 a.m. to 7:00 p.m. on Saturdays. Per Municipal Code Section 20.100.450, the project would be required to obtain a permit from the City because construction is proposed outside of the allowable construction hours since the project is located within 500 feet of residences and within 200 feet of commercial or office uses.[26] Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the project would involve demolition of the existing structure and pavement, site preparation, grading and excavation, trenching, and paving which would temporarily increase noise levels in the immediate vicinity of the site for a period of more than 12 months. The estimated construction noise levels at nearby land uses would range from 69 to 80 dBA L_{eq}, exceeding the ambient noise levels by more than five dBA L_{eq} at surrounding land uses.

Impact NOI-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses.

Mitigation Measures

Consistent with the Municipal Code, and in accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required to implement the following measures during all phases of construction on-site:

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or demolition permits.

[26] Per Municipal Code Section 20.100.450, construction within 500 feet of a residential unit shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday.

As part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with mufflers designed for that piece of equipment and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The unnecessary idling of internal combustion engines shall be prohibited.
- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible).
- The surrounding neighborhood within 500 feet shall be notified of the construction activities two weeks prior to the start of each construction phase.
- A "noise disturbance coordinator" shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

With the implementation of the identified mitigation measures, General Plan Policy EC-1.7, and Municipal Code Requirements, the proposed project would not result in a significant construction noise impact.

Operational Noise Impacts

Project-Generated Traffic

As described in Section 3.3.1 above, the existing noise levels on-site, which range from 64 to 70 dBA DNL, are within the City's "normally acceptable" noise level for office and commercial uses. Pursuant to General Plan Policy EC-1.2, a three dBA DNL increase at noise sensitive receptors where existing noise levels exceed the "normally acceptable" noise level standard would be significant. A three dBA DNL noise increase would be expected if the project would double existing traffic volumes along the roadway. Based on review of the existing and existing plus project traffic volumes, the project's contribution to the overall noise level increase would be two dBA DNL or less along each roadway segment in the project vicinity.[27] The project alone, therefore, would not result in a significant, permanent noise increase.

[27] Fehr & Peers. *Valley Title Local Transportation Analysis.* April 2022.

Mechanical Equipment

The proposed project would include various mechanical equipment for heating, ventilation, and air conditioning. In accordance with the Downtown Strategy 2040 FEIR and pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of noise-sensitive land uses.

According to the site plan, all proposed electrical and mechanical equipment would be located within the building with the exception of rooftop solar panels and cooling tower equipment. Solar panels generate insignificant amounts of noise that are not measurable or audible on adjacent properties. Cooling towers typically include fan operations, heat pumps, and chillers, which generate noise levels of approximately 94 dBA at a distance of three feet. Estimated noise levels from operation of the proposed cooling towers is shown in Table 3.5-3 below.

Table 3.5-3: Estimated Noise Levels at Mechanical Equipment

Receptor	Distance from Center of Cooling Tower Equipment (feet)	Leq from Equipment, dBA	Combined DNL dBA
Adjacent Commercial Buildings	115	43	49
Residential Uses to the East	180	49	55
Residential Uses, School, and Commercial Uses to the East	100	44	50
Residential and Commercial Uses to the West	320	34	40
Commercial Uses to the North	465	31	37
Residential Uses to the South	230	47	53
Commercial Uses to the South	230	37	43
Residential Uses to the Southeast	250	46	52

Source: Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Noise and Vibration Assessment, San Jose, California*. March 11, 2022.

As shown in Table 3.5-3, mechanical equipment noise from the project would not exceed the City's General Plan threshold of 55 dBA DNL at the existing or future residential land uses surrounding the project site. For these reasons, the project would not result in generation of a substantial permanent increase in ambient noise levels in the vicinity of the project site.

Nonetheless, consistent with the Downtown Strategy 2040 FEIR, General Plan, and Municipal Code, the project would be required to implement the following Standard Permit Condition to ensure the project maintains a noise level of 55 dBA or less at the shared property lines of nearby noise-sensitive land uses.

Standard Permit Condition:

> Prior to issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirements at the property line of nearby noise-sensitive land uses. The applicant shall retain a qualified acoustical consultant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise levels requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building facades farthest from the nearest residences) where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

With implementation of the Standard Permit Condition, the project would have a less than significant operational noise impact from mechanical equipment. **[Same Impact as Approved Project (Less than Significant Impact)]**

Truck Loading and Unloading

During project operations, truck loading and unloading activities would occur on the first level of the below-grade parking structure. The proposed building facades would provide adequate shielding from all surrounding land uses resulting in noise levels below the City's 55 dBA DNL threshold and not exceeding ambient conditions at nearby sensitive receptors. For this reason, the project would not result in the generation of a substantial permanent increase in ambient noise levels in the vicinity of the project site.

With implementation of the identified Standard Permit Condition and Mitigation Measure NOI-1.1, the project would have a less than significant increase in ambient noise levels in the vicinity of the project site. **[Less Impact than Approved Project with Mitigation Incorporated (Significant Unavoidable Impact)]**

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

Construction Vibration

Construction activities such as drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the project vicinity. Construction of the project would require demolition and preparation work, excavation of the five-story below-grade parking garage, foundation work, and new building framing and finishing. No pile driving is proposed.

General Plan Policy EC-2.3 requires new development to minimize vibration impacts to adjacent uses during demolition and construction. A vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historic structures and a vibration limit of 0.2 in/sec PPV shall be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Table 3.5-3 shows the vibration levels at the nearest structures.

Table 3.5-4: Construction Vibration Levels for Construction Equipment

Equipment		Adjacent Historical Buildings to Southwest (5 feet)	Historical Buildings to West (75 feet)	Historical Buildings to South (65 feet)	Commercial Building to North (90 feet)	Residential, School, Commercial Buildings to East (80 feet)
Clam shovel drop		**1.186**	0.06	0.71	0.049	0.056
Hydromill (slurry wall)	In soil	0.047	0.002	0.003	0.002	0.002
	In rock	**0.100**	0.005	0.006	0.004	0.005
Vibratory Roller		**1.233**	0.063	0.073	0.051	0.058
Hoe Ram		**0.523**	0.027	0.031	0.022	0.025
Large Bulldozer		**0.523**	0.027	0.031	0.022	0.025
Caisson drilling		**0.523**	0.027	0.031	0.022	0.025
Loaded trucks		**0.446**	0.023	0.027	0.019	0.021
Jackhammer		**0.206**	0.010	0.012	0.009	0.010
Small Bulldozer		0.018	0.001	0.001	0.001	0.001

Note: **Bold** = significant impact

Source: Transportation and Construction Vibration Guidance Manual, California Department of Transportation, September 2018. And Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Noise and Vibration Assessment, San Jose, California*. March 11, 2022.

As shown in Table 3.5-3, the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at the adjacent historic buildings located approximately five feet southwest of the project site on South 1st Street, resulting in a significant impact.

Impact NOI-2: Construction vibration levels would exceed the General Plan threshold of 0.08 in/sec PPV for historic era buildings approximately five feet from the project site.

Mitigation Measures

The Downtown Strategy 2040 FEIR recognized that construction vibration for future projects in downtown could exceed these thresholds and included mandatory measures to be implemented by future projects to reduce vibration impacts. The proposed project would implement the following measures during all phases of construction on-site.

MM NOI-2.1: Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions prior to, during, and after vibration generating construction activities. The plan shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The vibration monitoring, treatment, and reporting plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval.

As part of the construction vibration monitoring, treatment, and reporting plan, construction activities for the proposed project shall include, but are not limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- Prohibit pile driving.
- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 60 feet of any adjacent building.
- Document conditions at all historic structures located within 60 feet of construction and at all other buildings located within 25 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:
    - Vibration limits shall be applied to vibration-sensitive structures located within 60 feet of any construction activities identified as sources of high vibration levels.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities and all other buildings within 25 feet of

construction activities. Surveys shall be performed for the entire building and occur prior to any construction activity, in regular intervals during construction to be defined during preparation of the vibration monitoring and construction contingency plan, and after project completion, and shall include internal and external crack settlement, and distress monitoring in structures and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.

- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, identify structure-specific vibration thresholds, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.
- If vibration levels approach City's vibration thresholds, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a post-construction survey on structures where vibration levels would be highest or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey will be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.

With implementation of the above mitigation measure, the proposed project would not result in a significant construction vibration impact. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

The project site is located approximately 2.5-miles southeast of the Norman Y. Mineta San José International Airport. The project site is within the AIA and lies within the 60 to 65 dBA CNEL 2037

noise contour for the airport.[28] In accordance with General Plan Policy EC-1.11, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. The project would not result in new or substantially more severe significant aircraft-related noise impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.5.2.1 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative noise impact?

Cumulative noise impacts would include construction noise from pending and approved construction projects. Cumulative traffic noise increases from build out of the Downtown Strategy 2040 (which the proposed project is included in) were studied in the Downtown Strategy 2040 FEIR. Therefore, no further cumulative traffic noise increases would occur due to the proposed project.

Intervening structures and vegetation can absorb or reflect noise back to the source, thus, a direct line of sight between noise sources is necessary for cumulative noise impacts. In other words, only those projects with direct line of sight to the project site would result in cumulative construction noise impacts when combined with the proposed project. The geographic area for cumulative construction noise impacts is thus, conservatively assumed to be 1,000 feet from the project site. There are eleven planned and approved projects within 1,000 feet of the project site which have construction schedules that correspond with that of the proposed project:

- City View Plaza
- Gateway Tower
- South Market Mixed-Use
- Tribute Hotel
- Park Habitat
- The Mark
- Bo Town Residential
- 420 South 2nd Street
- 420 South 3rd Street
- San José Stage/Home 2 Hotel
- South 4th Street Mixed-Use

All of the identified cumulative projects are located within the Downtown Strategy 2040 plan area. According to the Downtown Strategy 2040 FEIR, with implementation of construction noise and vibration mitigation measures for individual projects, construction noise and vibration levels would be reduced as much as possible at all surrounding sensitive receptors during construction of each individual project. For this reason, cumulative construction impacts would be less than significant. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

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

SECTION 4.0 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (Section 15126[d]). This section of the SEIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacles to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that cause significant environmental effects.

The project is implementing a piece of a larger strategy plan for all of downtown and is consistent with the planned growth in the Downtown Strategy 2040 (as well as the City's General Plan). The project site is located on an urbanized, infill site served by existing infrastructure (including roadways and utilities). The project would not require a new or expanded infrastructure that would facilitate growth beyond what is already planned for the project area.

The Downtown Strategy 2040 FEIR concluded that, although the implementation of Downtown Strategy 2040 would not directly induce growth in the City beyond what is already planned in the City's General Plan, Downtown Strategy 2040 has the potential to indirectly induce growth outside of the City because its implementation (as well as the implementation of the City's General Plan) includes substantial new employment uses beyond the needs of the local workforce.[29] An indirect effect of that job growth would be inducing population growth elsewhere. The Downtown Strategy 2040 FEIR concluded that the implementation of the Downtown Strategy 2040 (which includes the proposed development) would contribute to the significant, unavoidable growth inducing impact identified in the General Plan FEIR.[30]

[29] City of San José. Integrated Final EIR Downtown Strategy 2040. SCH# 2003042127. December 2018. Page 339.
[30] Ibid.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

Pursuant to CEQA Guidelines Section 15126.2(d), an EIR must identify significant irreversible environmental changes that would be caused by the proposed project being analyzed. Significant irreversible changes include the 1) irreversible use of nonrenewable resources, 2) commitment of future generations to similar use, and 3) irreversible damage resulting from environmental accidents associated with the project.

5.1 IRREVERSIBLE USE OF NONRENEWABLE RESOURCES

As discussed in the Downtown Strategy 2040 FEIR, implementation of Downtown Strategy 2040 (which includes the proposed development), would require the use of nonrenewable resources during construction and operation of development projects (such as the proposed project). Nonrenewable resources used would include fossil fuels, metals, concrete, plastics, and water. Renewable resources, such as lumber and energy from renewable sources (e.g., solar and wind), would also be used.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project would be built to current codes, which require the insulation and design to minimize wasteful energy consumption. The project would be constructed to minimum LEED Platinum standards and would, as a result, use less energy for heat and light and less water than a standard design building. In addition, the site is an infill location currently served by public transportation and within walking distance of housing and services.

As concluded in the Downtown Strategy 2040 FEIR, the implementation of Downtown Strategy 2040 (which includes the proposed development) would not require the construction of major new lines to deliver energy and would represent a more efficient allocation of nonrenewable resources than other types or patterns of growth.[31]

5.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE

The project would be developed on a site that is currently developed and located within an urban area. Development of the project would commit resources to prepare the site, construct the building, and operate the building, but it would not result in development of undeveloped land.

As concluded in the Downtown Strategy 2040 FEIR, implementation of Downtown Strategy 2040 (which includes the proposed development) would revitalize the downtown by allowing higher density infill development on underutilized parcels, and such growth and revitalization would not commit future generations to changes in land use that are substantial.[32]

5.3 IRREVERSIBLE DAMAGE FROM ENVIRONMENTAL ACCIDENTS

Without mitigation, irreversible changes to the physical environment could occur from accidental release of hazardous materials associated with development. Compliance with hazardous materials

[31] Ibid. Page 340.
[32] Ibid.

regulations and policies, and remediation contamination, would reduce impacts to a less than significant level. As discussed in the Initial Study (refer to Appendix A), the project would not result in significant hazards or hazardous materials impacts.

The Downtown Strategy 2040 FEIR concluded that, other than the accidental release of hazardous materials, the activities occurring in the study area under the Downtown Strategy 2040 would be similar to those urban activities occurring in any large metropolitan area.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

The proposed project would not result in significant unavoidable impacts. All project impacts would be less than significant or reduced to a less than significant level with incorporation of mitigation measures, Conditions of Approval, and Standard Permit Conditions identified in this EIR.

SECTION 7.0 ALTERNATIVES

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives discussion is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6).

In order to comply with the proposes of CEQA, it is important to identify alternatives that reduce the significant impacts anticipated to occur if the project is implemented and try to meet as many of the project's objectives as possible. The CEQA Guidelines emphasize a common sense approach – the alternatives should be reasonable, "foster informed decision making and public participation," and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the "rule of reason" which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. An EIR is not required to consider alternatives which are infeasible.

The three critical factors to consider in selecting and evaluating alternatives are, therefore; (1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, (2) the project objectives, and (3) the feasibility of the alternatives available. These factors are discussed below.

7.1 FACTORS IN SELECTING AND EVALUATING ALTERNATIVES

7.1.1 Significant Impacts of the Project

As explained above, the CEQA Guidelines state that the alternatives analysis in an EIR should be limited to alternatives that are feasible and would avoid or substantially lessen any of the significant effects of the project and achieve most of the basic objectives. The project would not result in any new or substantially more significant environmental impacts than those that were previously analyzed in the Downtown Strategy 2040 FEIR. All project impacts would be reduced to a less than significant level with implementation of mitigation measures and standard permit conditions.

7.1.2 Project Objectives

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the basic objectives is considered relevant to their consideration. As identified in Section 2.3 Project Objectives, the applicant's objectives for the project are as follows:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan of locating high density development on infill and underutilized sites to strengthen the downtown as a regional employment, entertainment, and cultural destination. Specifically, provide high density commercial office space with ground floor retail, in proximity to public transit, to support companies that serve creative

and innovative industries, contributing to the concept of a complete neighborhood and transit-oriented and pedestrian-oriented environment.

2. Provide a high-quality architectural design that draws inspiration from the region's native ecological systems and agricultural history of orchards to create a distinctive and add an iconic roofline to the City's skyline.

3. Provide high-quality landscape and privately-owned public open space throughout the project site.

4. Support San Jose's environmental stewardship goals by providing a project that is an example of sustainable design with innovative components such as "water smart," low-or-zero carbon development with integrative design strategies, vertical orchard and pollinator landscape on mixed-use commercial tower made up of native and drought tolerant plants.

5. Provide a project that is financially feasible with the largest square footage that can be constructed, supporting the City's economic development goals, and attracting the best tenant or tenants.

7.1.3 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law interpreting CEQA and the CEQA Guidelines have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines state that such factors can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

7.2 PROJECT ALTERNATIVES

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project Alternative
- Preservation Alternative
- Reduced Scale Alternative

7.2.1 Project Alternatives Considered But Rejected for Further Analysis

Location Alternative

The project proposes to construct a 20-story commercial building with two towers, with approximately 1,335,240 square feet of office uses and 60,430 square feet of ground floor retail on an approximately 2.8-acre site in the downtown area.

In order to identify an alternative site that might be reasonably considered to "feasibly accomplish most of the basic purposes" of the project, and would also reduce significant impacts, it was assumed that such a site would ideally have the following characteristics:

- Approximately 2.8-acres in size;
- Located near transit facilities;
- Located near freeways and/or major roadways;
- Served by available infrastructure;
- Available for development;
- Allow high intensity commercial office development at an intensity of up to 11.0 FAR.

In consideration of an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location."[33] Any project of this size and intensity within downtown San José would have similar impacts associated with project construction. Furthermore, it is not likely that an alternative location anywhere in San José would substantially lessen the identified impacts. Finally, the applicant does not have within their control an alternative site. As a result, an alternative site was considered further.

Preservation Alternative

The proposed project would demolish the existing office building, surface parking lot, and improvements on-site and construct a 20-story commercial building with ground floor retail uses and five levels of below-grade parking. Public comments on the NOP requested that the SEIR include an analysis of a project alternative that would retain the existing office building in situ, either as a freestanding structure or incorporated into the proposed complex. Additionally, public comments requested that the project applicant explore the feasibility of reversing the building's 1970s alterations, exposing and restoring surviving original features of the building's original Art Deco design as the Hales Department Store (1931) independent of the CEQA process. To address community concerns, a preservation alternative was considered.

Under the Preservation Alternative, a 20-story commercial building would be constructed on the eastern portion of the project site and the existing three-story office building at the corner of South 1st Street and San Carlos Street would remain. Under this Alternative, approximately 1,198,362 square feet of office uses and 39,806 square feet of retail uses would be provided, including 58,362 square feet of office uses in the existing building, and 1,140,000 square feet of office uses and 39,806 square feet of ground floor retail uses in the new commercial building. This is a decrease of 176,666 square feet of office uses and a decrease of 18,556 square feet of ground floor retail space compared to the proposed project. The market hall/pedestrian plaza included in the proposed project would be constructed under this alternative adjacent to the existing office building along South 1st Street.

As discussed in Section 3.2, Cultural Resources, the existing three-story office building is not eligible for listing as a historic resource in local, state, or federal inventories. For these reasons, the proposed project would not cause a substantial adverse change in the significance of an on-site historic resource. Because the proposed project would not result in a substantial adverse change in the

[33] CEQA Guidelines Section 15126.6 (f)(2)(A)

significance of a historic resource, there is no nexus to require further analysis of this alternative.

Nonetheless, a review of historic building permit records for the existing office building at the City of San José was completed by TreanorHL in June 2021 to determine the feasibility of preserving the original 1930's façade of the building. The records search revealed that during the building's 1969 renovations, concrete was installed directly over the original finish on the ground floor and new brick veneer was installed atop metal lath on the upper floors. Removal of the concrete from the ground floor finish would likely damage the original façade due to adhesion of the concrete to the old finish. Additionally, based on the building techniques used to adhere the brick veneer to the upper floors, it is likely that holes were drilled into the original façade to support the weight of the new brick veneer, damaging the condition of the original façade.[34] For these reasons, restoration of the 1930s façade of the existing office building to its original condition is not feasible and this alternative was not analyzed further.

7.2.2 No Project Alternative

The CEQA Guidelines specifically require consideration of a "No Project" Alternative. The purpose of including a No Project Alternative is to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project. The CEQA Guidelines specifically advise that the No Project Alternative shall address both the existing conditions and "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services" (Section 15126.6 (e)(2). Given the site's DC- Downtown Primary Commercial land use and zoning and its location within the downtown (which was identified in the General Plan and Downtown Strategy 2040 as an area for increased commercial development), it is reasonable to assume that if the proposed project were not approved or implemented, an alternative development would likely be proposed in the future which would conform to the DC land use and zoning designation. An alternative project proposed on-site consistent with existing plans and policies would likely be a commercial office project comparable in scale to the proposed project. Such an alternative would have construction and operational impacts in keeping with what has been disclosed throughout this SEIR, and therefore further discussion is unwarranted.

Currently, the project site is developed with a three-story office building, surface parking lot, and limited landscaping. Under the No Project Alternative, it is assumed for purposes of the remainder of this discussion, the existing development on the project site would continue to operate as an office building and parking lot.

Comparison of Environmental Impacts

Under the No Project Alternative, the site would generate less traffic than under the proposed project and traffic levels would remain as they are with the current developed site conditions. Since no construction would occur on the project site under the No Project Alternative scenario, construction-related impacts identified to occur under the proposed project would be avoided.

[34] TreanorHL. Historic Evaluation for 300 S 1st Street. April 6, 2022.

Relationship to Project Objectives

The No Project Alternative would not meet any of the project objectives because it would not: develop a new building with iconic architecture; include ground floor commercial uses with office uses on the upper floors; include land uses that generate high transit ridership; or utilize the allowable FAA height limit for the site.

Conclusion

The No Project Alternative would avoid the project's impacts and would not meet any of the project objectives. Nor would it meet any of the City's goals and visions for the downtown, which include encouraging ambitious job and housing growth.[35]

7.2.3 Reduced Scale Alternative

The purpose of the Reduced Scale Alternative is to avoid the project's significant, but mitigable construction-related impacts. To reduce the project's construction vibration impacts on the adjacent commercial buildings to the southwest, the building footprint would have to be reduced to allow for a 60-foot setback between the proposed and existing buildings. This would result in a 20-story approximately 1,194,233-square foot building.

Comparison of Environmental Impacts

The Reduced Scale Alternative would reduce the project's significant, but mitigable construction-related vibration impacts to a less than significant level by locating the building and associated construction activities farther from the adjacent historic-era commercial buildings to the southwest. The reduced building size under this alternative would also proportionally reduce the project's significant but mitigable construction-related cancer risk, $PM_{2.5}$ emissions, and noise and vibration impacts, however, mitigation measures would likely still be required due to size of the proposed building and proximity to sensitive receptors. All other impacts would be the same as the proposed project with all identified mitigation measures, Conditions of Approval, and Standard Permit Conditions.

Relationship to Project Objectives

The Reduced Scale Alternative would meet all of the project objectives however to a lesser extent than the proposed project due to the reduced building size.

Conclusion

The Reduced Scale Alternative would avoid the project's significant but mitigable construction vibration impacts and lessen the projects construction air quality and noise impacts. All other impacts disclosed in the Initial Study (refer to Appendix A) and Downtown Strategy 2040 FEIR for the project would remain the same as the proposed project. The alternative would meet all of the project objectives however, to a lesser extent than the proposed project due to the reduced building size.

[35] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 25.

7.2.4 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project Alternative because it would avoid all of the project's significant environmental impacts. CEQA Guidelines Section 15126.6 (e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, in addition to the No Project Alternative, the Reduced Scale Alternative is the environmentally superior alternative because it avoids the project's significant, but mitigable construction vibration impacts and would lessen the project's construction air quality and noise impacts compared to the project given the reduced amount of development that would be constructed under this alternative.

SECTION 8.0 REFERENCES

The analysis in this Environmental Impact Report 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:

Bay Area Air Quality Management District (BAAQMD). *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

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Illingworth & Rodkin, Inc. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment, San José, California.* Revised March 11, 2022.

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

-----. "Downtown San José Strategy Plan 2040 Environmental Impact Report," December 2018.

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

-----. Integrated Final EIR Downtown Strategy 2040. SCH# 2003042127. December 2018.

TreanorHL. Historic Evaluation for 300 S 1st Street. April 6, 2022.

SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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9.2 CONSULTANTS

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Historic Consultants
Kimberley Butt, Principal
Aysem Kilinc, Architectural Historian/Preservation Planner

SECTION 10.0 ACRONYMS AND ABBREVIATIONS

2017 CAP	Bay Area 2017 Clean Air Plan
ATCMs	Air toxic control measures
BAAQMD	Bay Area Air Quality Management District
CARB	California Air Resources Board
CARE	Community Air Risk Evaluation Program
CalEEMod	California Emissions Estimator Model
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CNEL	Community Noise Equivalent Level
CO	Carbon monoxide
CRHR	California Register of Historic Resources
DNL	Day-Night Level
DPM	Diesel particulate matter
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
Facility	San José-Santa Clara Wastewater Regional Treatment Facility
FEIR	Final Environmental Impact Report
GHGs	Super-greenhouse gases
MLD	Most Likely Descendant
MND	Mitigated Negative Declaration
NAHC	Native American Heritage Commission
NHPA	National Historic Preservation Act of 1966
NRHP	National Register of Historic Places
NO_2	Nitrogen dioxide
NOx	Nitrogen oxides
NOD	Notice of Determination
NOP	Notice of Preparation
NWIC	Northwest Information Center
O_3	Ozone
OITC	Outdoor-Indoor Transmission Class
PM	Particulate matter

PM_{10}	Course particulate matter
$PM_{2.5}$	Fine particulate matter
PPV	Peak particle velocity
PBCE	City of San José Department of Planning, Building, and Code Enforcement
ROG	Reactive organic gases
RWQCB	Regional Water Quality Control Board
SEIR	Supplemental Environmental Impact Report
SJCE	San José Clean Energy
SO_x	Sulfur oxides
TACs	Toxic air contaminants
TDM	Transportation Demand Management
USFWS	United States Fish and Wildlife Service