Initial Study

Valley Title Commercial Project

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

April 2022

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

1.1.1 Downtown Strategy 2040

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

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This IS provides that subsequent project-level environmental review. This IS has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy plan and the General Plan. In accordance with CEQA, this IS would tier from the Downtown Strategy FEIR and the General Plan FEIR, and Addenda thereto.

1.2 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Valley Title Commercial Project (H21-012)

2.2 LEAD AGENCY CONTACT

Kara Hawkins, Environmental Project Manager
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street 3rd Floor Tower
San José, CA 95113
Kara.Hawkins@sanjoseca.gov
(408) 535-7852

2.3 PROJECT APPLICANT

Valley Title LLC

2.4 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 East San Carlos Street to the north, East 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 2.9-1 Regional Map, Figure 2.9-2 Vicinity Map, and Figure 2.9-3 Aerial Map.

2.5 ASSESSOR'S PARCEL NUMBER

APNS: 467-46-080, 467-46-081, and 467-46-082

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

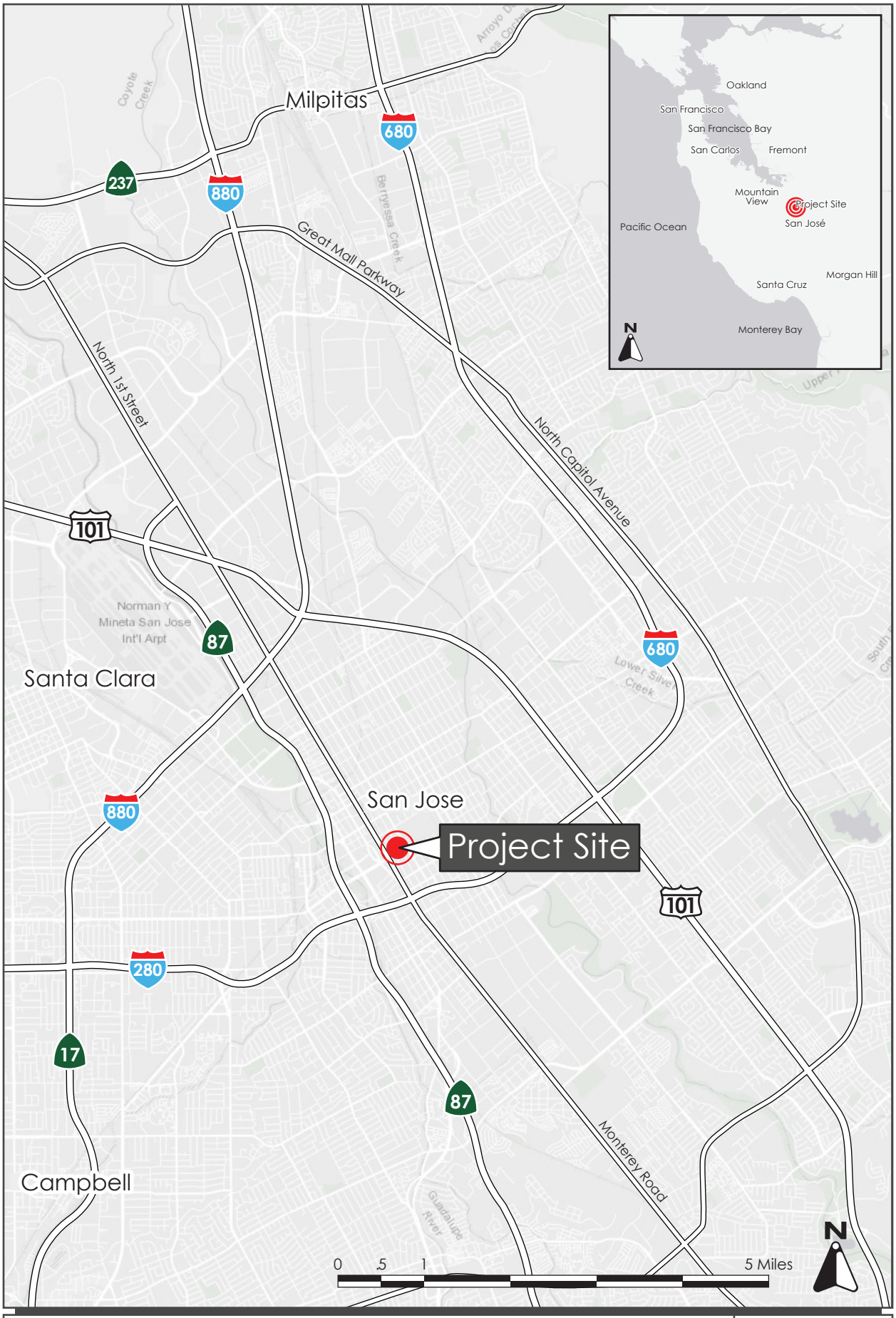
The proposed project is designated Downtown under the City's General Plan and is zoned Downtown Primary Commercial District.

2.7 HABITAT PLAN DESIGNATION

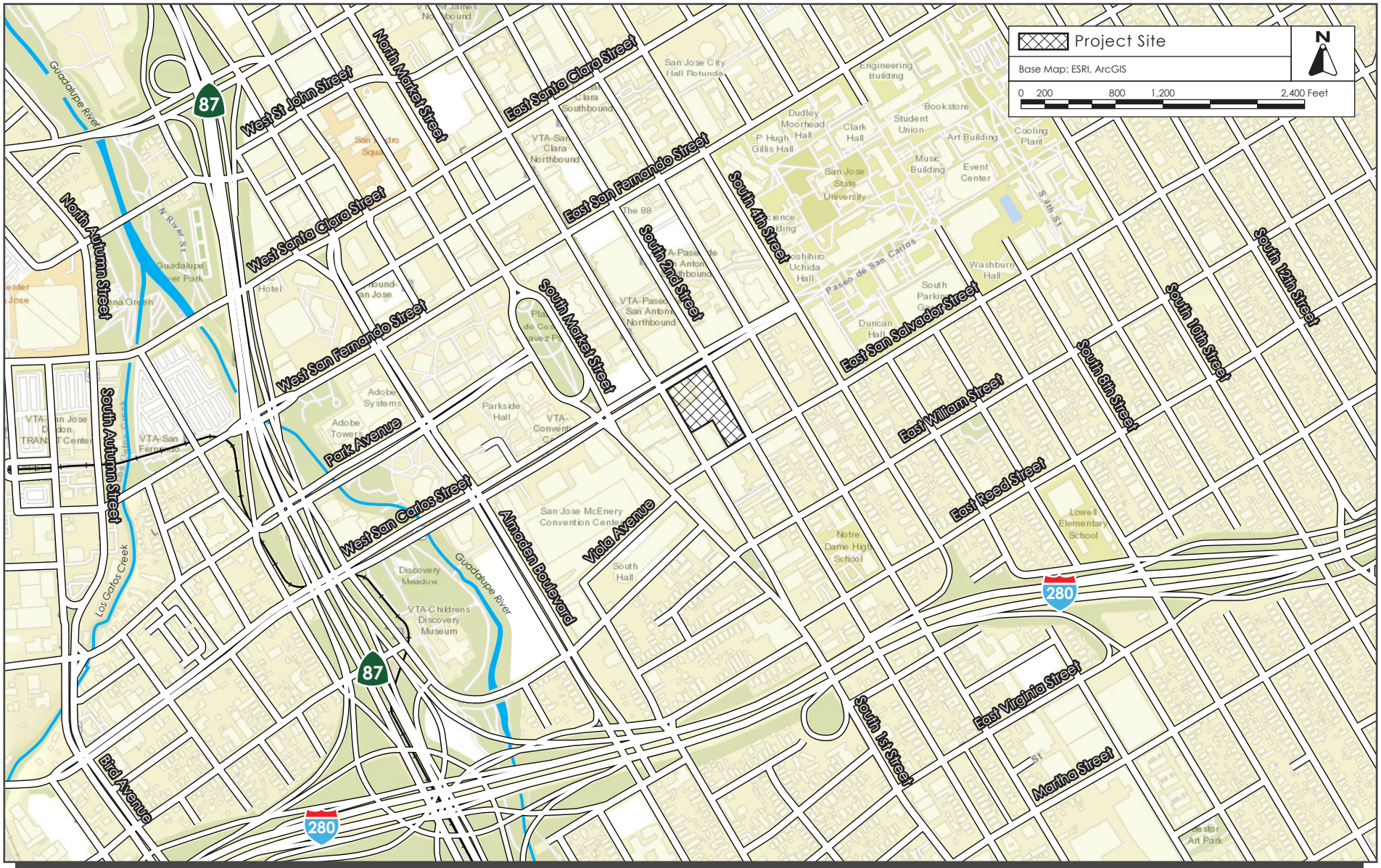
The project site is classified as Urban-Suburban under the Santa Clara Valley Habitat Plan.

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

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

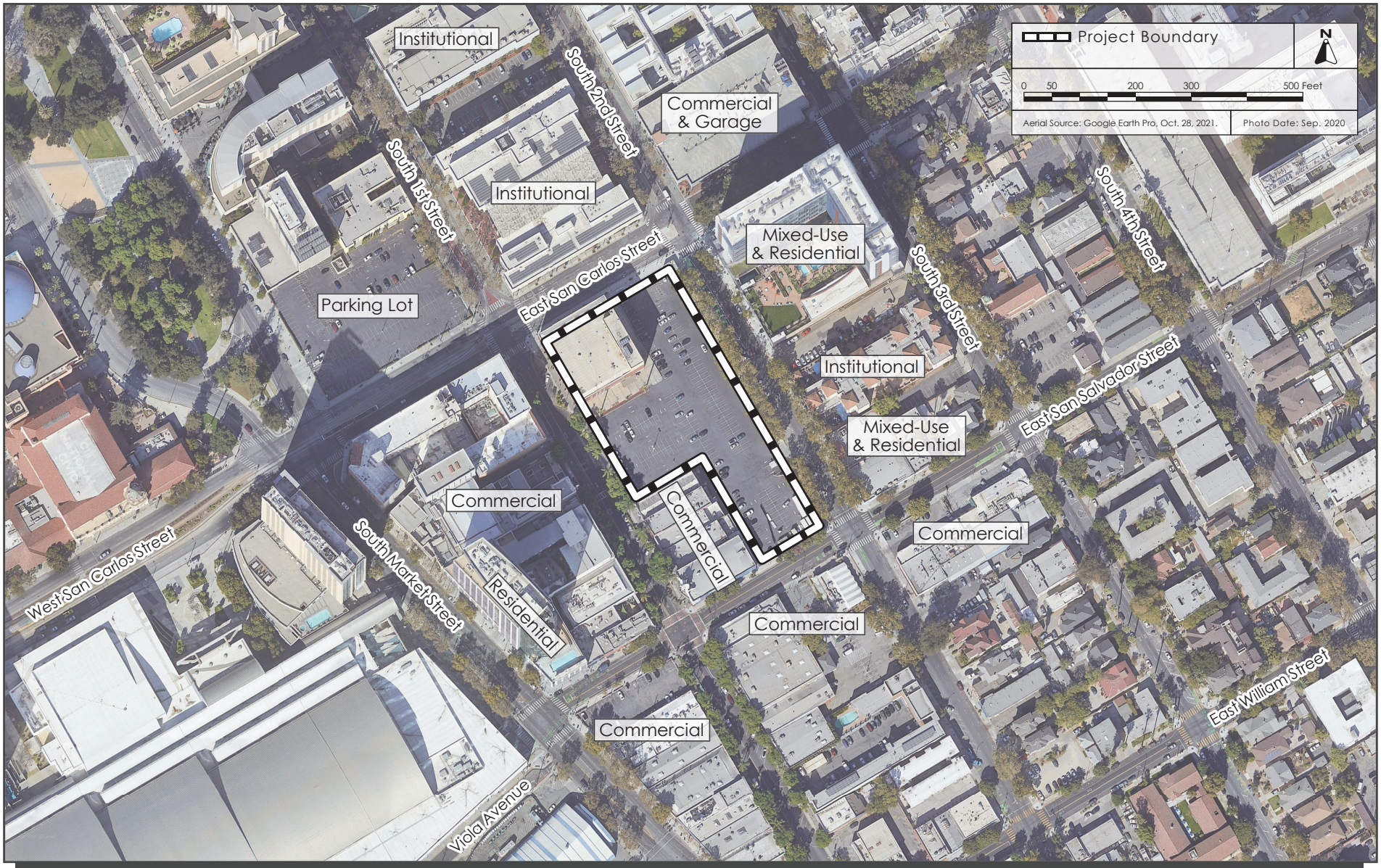


REGIONAL MAP | FIGURE 2.9-1



VICINITY MAP

FIGURE 2.9-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.9-3

SECTION 3.0 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 an additional 15,900 square feet of office uses for a total of 1,335,240 square feet of office uses. Refer to Figure 3.1-1 and Figure 3.1-2 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 mechanical equipment rooms in the first below-grade level and at Level 20.

Utility Improvements

The project would connect two new storm drain laterals to the existing 12-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.

Source: GGN, RANA Landscape Architecure, March 2, 2022.

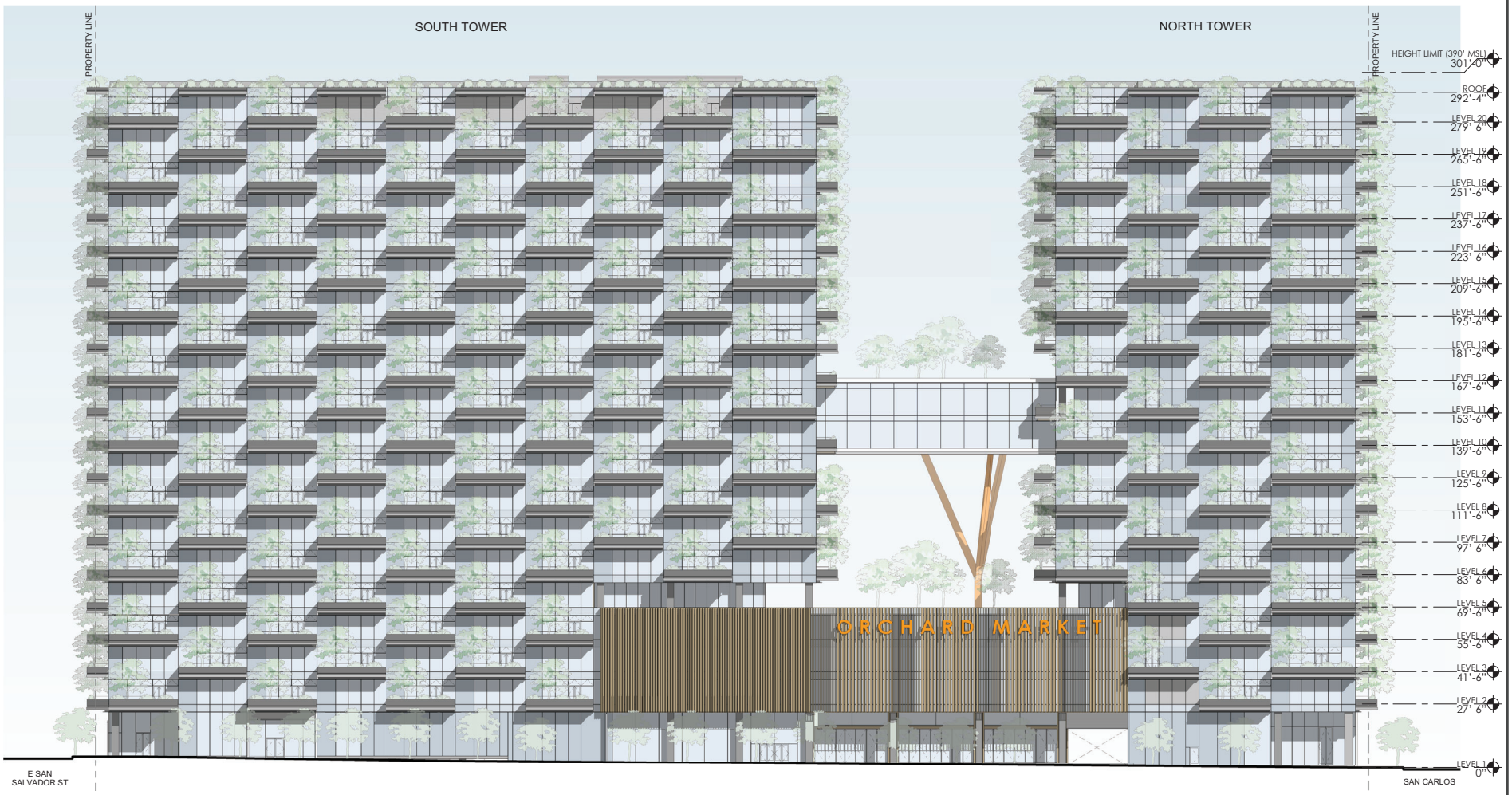
CONCEPTUAL SITE PLAN

FIGURE 3.1-1

Source: WRNS Studio, March 3, 2022.

CONCEPTUAL WEST ELEVATION

FIGURE 3.1-2



Source: WRNS Studio, March 3, 2022.

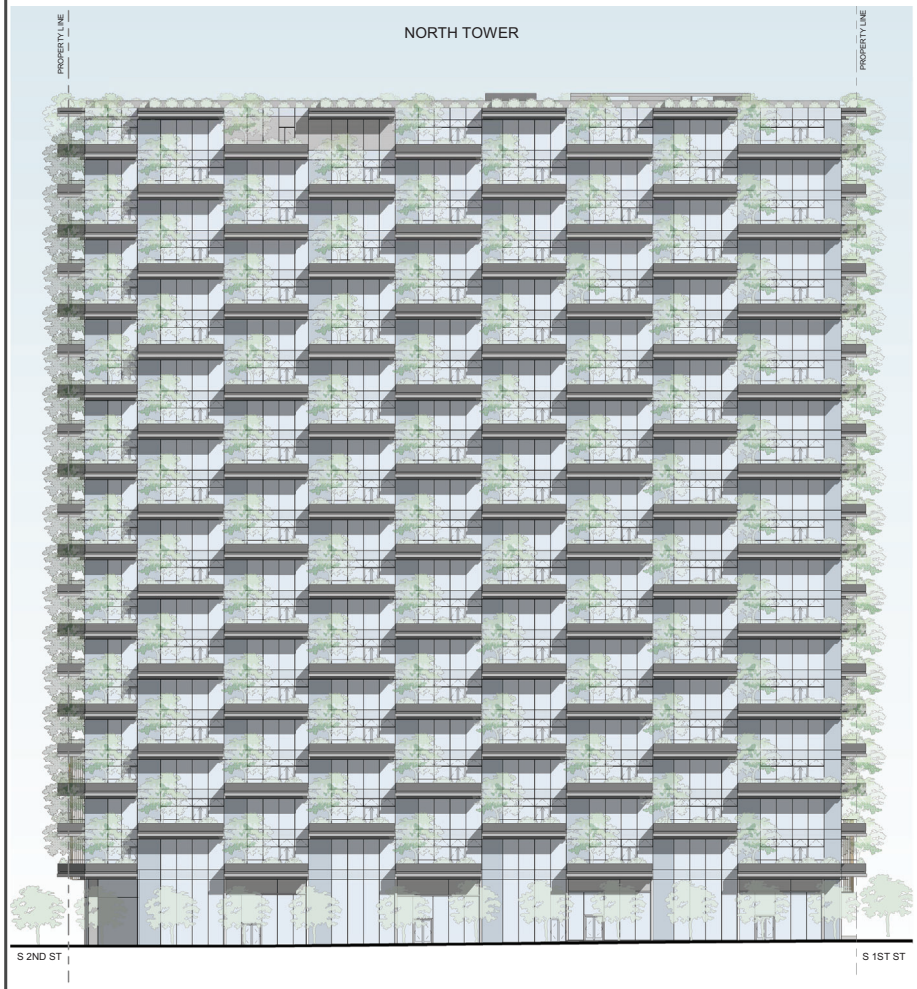
CONCEPTUAL EAST ELEVATION

FIGURE 3.1-3

Source: WRNS Studio, March 3, 2022.

CONCEPTUAL SOUTH ELEVATION

FIGURE 3.1-4



Source: WRNS Studio, March 3, 2022.

CONCEPTUAL NORTH ELEVATION

FIGURE 3.1-5

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 3.1-6, 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.

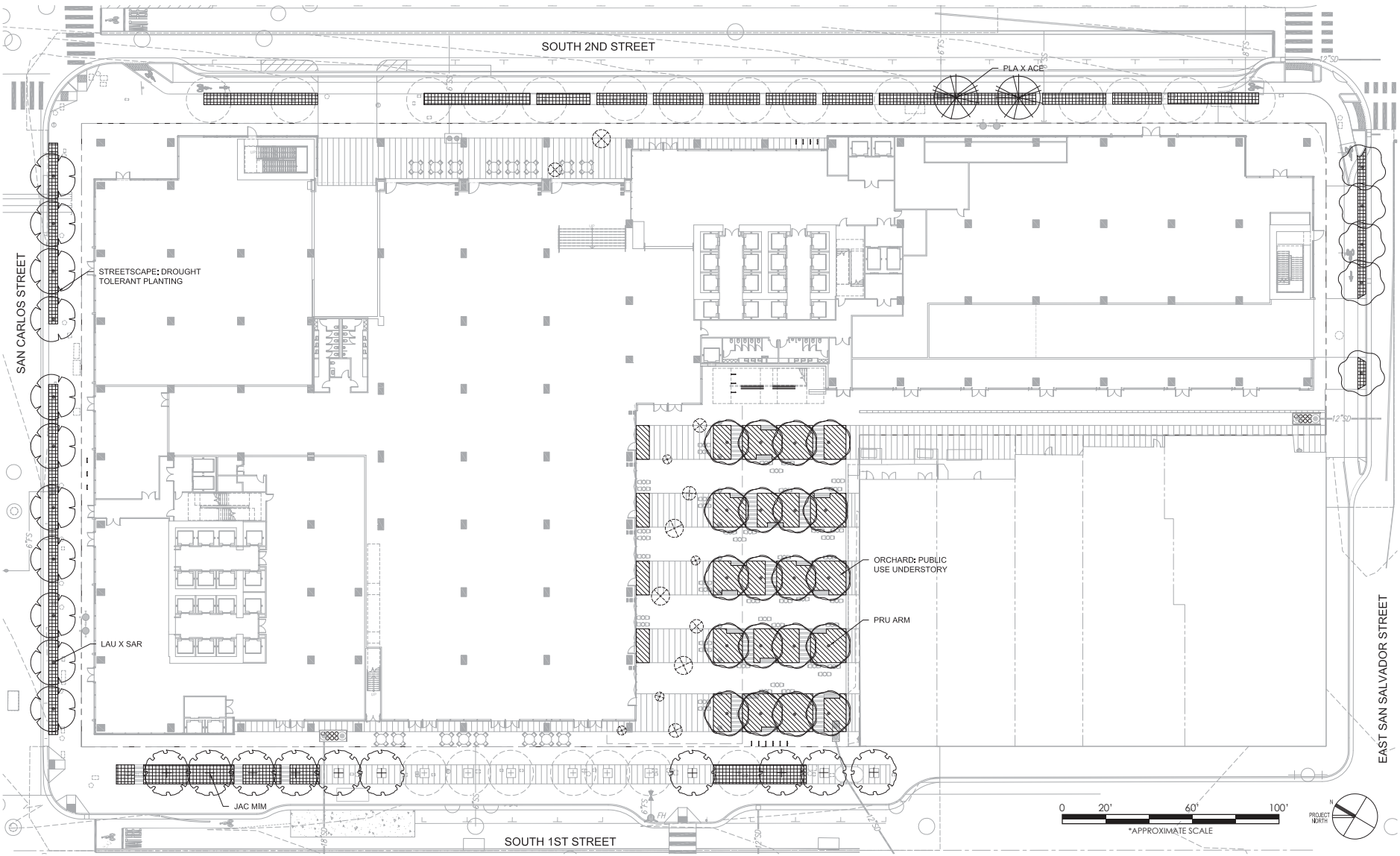
Transportation Demand Management

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



Source: GGN, RANA Landscape Architecture, March 2, 2022.

CONCEPTUAL LANDSCAPING PLAN

FIGURE 3.1-6

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 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 generated by the project 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 will 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 39-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 the ground surface (bgs). Approximately 290,867 cubic yards of soil would be exported from the site.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

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

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

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

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[2]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9,

[1] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed February 26, 2020. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[2] California Department of Transportation. "Scenic Highways." Accessed February 26, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

City of San José

Municipal Code

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

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

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

City Design Guidelines and Design Review Process

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

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

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

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

Envision San Jose 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics, as listed below.

Policy	Description
CD-1.1	Requires the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the city.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.12	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screened parking vehicles from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

CD-1.18 Encourage the placement of loading docks and other utility uses within parking structures to minimize their visibility and reduce their potential to detract from pedestrian activity.

CD1.23 Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

CD-1.24 Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best management practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

CD-6.2 Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

CD-6.10 Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architecture and site design in its center.

4.1.1.2 *Existing Conditions*

Project Site

The 2.8-acre project site is currently developed with an office building, asphalt-paved parking lot, parking lot entry gate and small pay station structure. The office building is located in the northwest corner of the project site, near the intersection of South 1st Street and East San Carlos Street. The parking lot occupies the remainder of the project site with the entry gate and pay station located in the southeastern portion of the site along South 2nd Street. The site includes minimal landscaping, consisting of trees on east, west and south site boundaries and planter boxes along the north project boundary.

The office building (constructed in 1931), located at 300 South 1st Street, is three-stories tall and is in the modernist architectural style comprised of a stucco façade at street level and a brick façade on the upper two floors. The building features regular arched window openings and a corner entrance on the ground floor, smaller rectangular deep-set windows on the upper floors, and a flat roof. The eastern façade of the building features a mural with abstract floral and geometric designs.

The pay station is a one story, approximately eight-foot-tall building with wood siding, an open gabled roof, and large overhangs. The building has one window on each side and a single door on the western façade.

Views of the project site are provided in Photos 1 and 2.

Surrounding Land Uses

The project site is located in an urban area, surrounded by existing development. The "L" shaped site occupies approximately three-quarters of the city block and is bounded by multi-story commercial buildings to the south and west and two- and four-lane roadways to the north, south, east and west

(i.e., East San Carlos Street, East San Salvador Street, South 1st Street, and South 2nd Street). The buildings within the vicinity of the project site vary in heights from one to 18 stories and are a variety of architectural styles and building materials. There are several visually distinctive buildings located within the immediate project site (including but not limited to California Theater, and St. Claire building) that have a renaissance-revival, Spanish baroque, and modern designs as discussed in further detail below.

The office buildings located at 246 South 1st Street, north of the project site consist of two low-rise buildings connected by a canopy-covered courtyard. The buildings are in the brutalist style and feature concrete façades with rounded corners and a ground floor that is recessed from the upper floors. Round columns stand in front of the ground floor windows visually supporting the floors above.

The one-story restaurant building located at 409 South 2nd Street, south of the project site is one of the only extant examples of Googie style architecture in downtown San Jose and features a sloping folded plate roof with large metal-framed windows across the eastern façade. Stone tile-clad low planters run along the entire perimeter of the building. The building is identified as a Structure of Merit in the City of San Jose Historic Resources Inventory.[3]

A two-story movie theater is located adjacent to the project site at the corner of South 1st Street and San Salvador Street. The Moderne style building is rectangular in plan with a barrel vault roof. The primary façade is dominated by a projecting marquee and blade sign. Flanking the blade sign are vertically striated panels, and flanking that, lower solid walls clad in rectangular panels.

Immediately west of the project site are two visually distinctive buildings, the California Theater building and the St. Claire building. The California Theater building, located at 329 South 1st Street, is a three-story Spanish Baroque-style theater building. The front façade is divided into three sections: the ground floor entrance, the middle section and the top section. The ground floor entrance is flanked by two large marble piers and topped with a full-width marquee, the middle section features a tall tripartite window with a heavily ornamented parapet; and the top section includes short columns in heavy relief with twisted fluting and decorated shafts. An illuminated blade sign which reads “California Theater” projects from the front façade. The Saint Claire building, located at 301 South 1st Street, is a five-story Renaissance Revival commercial building clad in terracotta. The ground floor is approximately two-stories tall and features three storefronts with large, fixed windows, multi-lite transoms and recessed entries open to South 1st Street. The eastern façade also features a recessed entry within a heavily ornate arched opening which provides access to the upper floors. Ornate spandrel panels are located between windows on the upper floors and the roofline of each street-facing elevation is decorated with projecting cornices with brackets and dentils tops.

Views of the surrounding development are provided in Photos 3 through 8.

[3] TreanorHL. *300 S. 1st Street, San Jose, California, Historic Resource Assessment & Design Guidelines and Standards Compliance Review*. April 6, 2022.

Photo 1: The north and west façades of 300 South 1st Street.

Photo 2: View of the project site from northeast corner of San Carlos Street/South 2nd Street intersection.

Photo 3: Surrounding development to the north.

Photo 4: Surrounding development to the east.

Photo 5: Surrounding land uses to the south.

Photo 6: Surrounding development to the southwest.

PHOTOS 5 & 6

Photo 7: Surrounding development to the west.

Photo 8: Surrounding development to the west.

Source: TreanorHL, August 9, 2021.

PHOTOS 7 & 8

Scenic Views

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The project site and surrounding areas are flat, and intervening trees and buildings block long-range views. The nearest natural scenic resource is the Guadalupe River corridor approximately 0.35 miles west of the project site, however, views of this corridor are blocked by interviewing trees and buildings.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project area, including but not limited to street lights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[4] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

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

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

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

The proposed project would meet the criteria of SB 743 because 1) the project would construct a commercial employment project and 2) the project is located within a transit priority area.[5] Consistent with Public Resources Code Section 21099, the project would have a less than significant aesthetics impact. While the project would have a less than significant aesthetic impact, this Initial Study addresses the CEQA checklist questions for informational purposes give the size and location of the project within the downtown area.

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

As mentioned previously, views of the hillside areas and downtown skyline are key scenic features in the city. Most of the City is relatively flat and prominent viewpoints, other than adjacent buildings, are limited. The project site is located within a highly urbanized area with no designated scenic resources. While construction of a 20-story commercial building with two towers would be a noticeable change in the built environment, it would not diminish scenic views or damage any scenic resources in the project area; therefore, implementation of the project would not result in a significant impact on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is not located along a state-designated scenic highway. The nearest state designated highway is Route 9 located more than eight miles southwest of the site. Therefore, implementation of the project would not result in a substantial impact on any scenic vistas or resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Development in the project area is a mix of commercial, entertainment venues, hotel, and office land uses, as well as a large park. The proposed project site is located in an area that is not highly visible, except from the surrounding roadways and properties. As described above, the project site is located in a developed area and is surrounded by a multitude of architectural styles and building heights.

The proposed 20-story commercial building would be comparable in height to the existing One South Market development and several recently approved development projects including a 20-story

[5] Metropolitan Transportation Commission. Transit Priority Areas (2017). Accessed February 25, 2021. http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-121.903%2C37.328%2C-121.862%2C37.334.

mixed-use building at 282 South Market Street, a 20-story office building at 200 Park Avenue, three 19-story office towers at the intersection of Park Avenue and Almaden Boulevard and two 16-story office towers at the intersection of Woz Way and Almaden Boulevard, which the City deemed consistent with the visual character of the City. The proposed commercial development would consist of glass building facades with projecting balconies and planter boxes. The podium level of the building is divided into narrower segments by double-height vertical dividers, setbacks, and materials changes breaking up the massing at the pedestrian level, similar to the bays of the surrounding historic buildings.[6]

In addition, the project would be consistent with the retail and office uses along South Market, South 1st and Santa Clara Streets. The Downtown Strategy 2040 FEIR concluded that while new development and redevelopment would alter the appearance of the City, implementation of adopted policies and existing regulations would avoid substantial degradation of the visual character or quality of the City. **[Same Impact as the Approved Project (Less than Significant Impact)]**

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

Development on the project site would be visible from the roadways and surrounding properties. Sources of light and glare include external building lights, streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows. The proposed project would include internal building lights, security lights, and external building lights.

The Downtown Strategy 2040 FEIR concluded that implementation of existing policies and regulations would avoid substantial light and glare impacts. The project would comply with all applicable General Plan policies (refer to Section 4.1.1.1 Regulatory Framework) and would not significantly impact adjacent land uses with increased nighttime levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[6] TreanorHL. *300 S. 1st Street, San Jose, California, Historic Resource Assessment & Design Guidelines and Standards Compliance Review*. April 6, 2022.

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

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

California Land Conservation Act

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

Fire and Resource Assessment Program

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

4.2.1.2 *Existing Conditions*

The project site is located in a developed, urban area of San José. The Santa Clara County Important Farmlands 2016 Map designates the project site as "Urban and Built-Up Land." Urban and Built-up Land is defined as land with at least six structures per 10 acres. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports,

[7] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed February 19, 2021. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[8] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[9] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[10] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed February 19, 2021. http://frap.fire.ca.gov/.

and other utility uses.[11] There are no forest lands on or adjacent to the project site. The site is not subject to a Williamson Act contract.[12]

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

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

[11] California Department of Conservation. "California Important Farmland: 1984-2018." Accessed October 8, 2021. https://maps.conservation.ca.gov/agriculture/#webmaps

[12] County of Santa Clara Department of Planning and Development. "Williamson Act and Open Space Easement." Accessed December 9, 2020. https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx

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

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

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

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

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

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

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

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

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

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

4.3 AIR QUALITY

The approximately 2.8-acre project site is currently developed with a three-story office building and approximately 95,000 square foot surface parking lot.

4.3.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	☐	☐	☐	☐	☐

The analysis of air quality impacts is presented in the SEIR. No further analysis will be provided in this Initial Study.

4.4 BIOLOGICAL RESOURCES

The project site is currently developed with a three-story office building and approximately 95,000 square foot surface parking lot. There are a total of 34 trees on and adjacent to the project site.

4.4.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	☐	☐	☐	☒	☐

The analysis of biological resources impacts is presented in the SEIR. No further analysis will be provided in this Initial Study.

4.5 CULTURAL RESOURCES

The approximately 2.8-acre project site is currently developed with a three-story office building and approximately 95,000 square foot surface parking lot.

4.5.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	☐	☐	☐	☒	☐

The analysis of cultural resources impacts is presented in the SEIR. No further analysis will be provided in this Initial Study.

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[13] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[14]

[13] California Building Standards Commission. "California Building Standards Code." Accessed February 26, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[14] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed February 26, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Green Building Standards Code

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[15]

Regional and Local

Climate Smart San José

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

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

Sustainable City Strategy

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

City of San José Reach Building Code

In 2019, the San José City Council approved ordinance No. 30311 and adopted the Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San José. It requires

[15] California Air Resources Board. "The Advanced Clean Cars Program." Accessed February 26, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Rating and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

Energy and Water Building Performance Ordinance

In December 2018, the City of San José voted to adopt the Energy and Water Building Performance Ordinance consistent with Climate Smart San José. This ordinance requires commercial and multi-family buildings 20,000 square feet and over to track their yearly whole building energy and water usage data with the EPA platform ENERGYSTAR Portfolio Manager and share this data with the City. Implementation of the ordinance will help the City reach GHG emissions reduction and water conservation goals by encouraging efficiency in large commercial and multi-family buildings.

Municipal Code

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

Envision San José 2040 General Plan

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

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into design and construction.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.

MS-14.2 Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.

MS-14.3 Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategy Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

MS-14.4 Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.

MS-17.2 Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.

MS-18.5 Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.

MS-18.6 Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.

MS-19-4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

IN-5.3 Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.

PR-6.4 Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.

LU-5.4 Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe,

	accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking, and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[16] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.[17] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[18]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 90 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2019, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was

[16] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed July 13, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[17] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed July 13, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[18] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed January 28, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

imported from other western states and Canada.[19] In 2019 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 26 percent, the industrial sector used 35 percent, and other uses used six percent.[20] Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately two percent of the state's total consumption of natural gas.[21]

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[22] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[23] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026. [24,25]

4.6.1.3 *Energy Use by Existing Development*

The project site is currently developed with a three-story office building and surface parking lot. Energy use for the existing building includes electricity and natural gas for building heating and lighting as well as gasoline for vehicles traveling to and from the site. The existing building and parking lot use approximately 1,035,330 kWH of electricity per year and 945,464 kBtu of natural gas per year. Using the U.S. EPA fuel economy estimates for 2019, the existing buildings on-site consume approximately 28,485 gallons of gasoline per year.[26]

[19] California Gas and Electric Utilities. 2020 *California Gas Report.* Accessed August 2, 2021. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[20] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[21] California Energy Commission. "Natural Gas Consumption by County." Accessed August 2, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[22] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed November 17, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[23] United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf
[24] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed October 8, 2021. http://www.afdc.energy.gov/laws/eisa.
[25] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed August 31, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.
[26] Illingworth & Rodkin. *Dot & Bar (Valley Title) Mixed-Use Project Air Quality Assessment.* March 11, 2022.

4.6.2 Impact Discussion

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

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

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

Energy Use During Construction

Construction activities would include demolition of the existing building, shoring, grading, excavation, below slab utilities, foundation, and building interior/exterior. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the City's Standard Permit Conditions detailed in Section 4.1, Air Quality of the SEIR, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. With implementation of the Standard Permit Conditions, energy would not be wasted or used inefficiently by construction equipment and waste from idling would be reduced. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operational Energy Use

The project would redevelop a 2.8-acre site in the downtown area. Operation of the proposed project would consume energy primarily for building heating and cooling, lighting, and water heating. The estimated annual energy use of the existing uses and proposed project are shown in Table 4.6-1 below.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development			
Development	**Electricity Use (kWH)**	**Natural Gas Use (kBtu)**	**Gasoline (gallons per year)**
Existing Uses			
Office Building	1,222,080	945,464	28,485
Parking Lot	33,250	0	0
Total	1,035,330	945,464	28,485
Proposed Project			
Office Building	23,609,200	0	671,147
Shopping Center	60,819	137,138	126,727
Parking Garage	2,877,670	0	0
Total	26,547,689	137,138	797,874
Net	**25,512,389**	**(808,326)**	**769,389**
Source: Illingworth & Rodkin, Inc. *Dot & Bar Mixed-Use Project Air Quality Assessment.* March 11, 2022.			

The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Additionally, the proposed project would be constructed in compliance with City of San José Council Policy 6-32. The project site is located approximately 0.2 miles from the Convention Center light rail transit (LRT) station. The nearest bus stops are located along East San Carlos Street and South 2nd Street, approximately 65 feet and two feet from the site, respectively. The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Additionally, the proposed project would include 284 bicycle parking spaces. In addition, the proposed project would comply with existing state energy standards. For these reasons, the project would not result in a potentially significant environmental impact due to insufficient consumption of energy during project operation. **[Same Impact as Approved Project (Less than Significand Impact)]**

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

Electricity on-site would be provided by SJCE. The applicant has not selected an SJCE program for the project; therefore, the default program will be the Greensource program, which provides 90 percent carbon-free electricity. The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. In addition, 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. As a result, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based on a Preliminary Geotechnical Investigation completed by Cornerstone Earth Group on June 10, 2021. The report is included as Appendix E.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

City of San José

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to geology and soils and applicable to the proposed project.

Policy	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Development in areas subject to soils and geologic hazards, including engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjacent properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any new grading occurring between October 15 and April 15.
EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.
EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Policies

Title 24 of the San José Municipal Code includes the 2019 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.1.2 *Existing Conditions*

Regional Geology

The project site is located within the Santa Clara Valley, which is a broad alluvial plane between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast.

The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

On-site Geologic Conditions

Topography and Soils

The project site is underlain by undocumented fill composed of clay, sand, and clayey sand.[27] Soils underlying the project site have low expansion potential.[28]

Groundwater

Based on the Phase I Environmental Site Assessment (ESA) prepared for the project site, groundwater within the vicinity of the project site has been estimated at a depth of approximately 12 to 16 feet bgs.[29] Groundwater in the project area flows in a northeasterly direction. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

Seismic and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the U.S. The significant earthquakes that occur in the Bay Area are generally associated with the crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trend in a northwesterly direction. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking is expected to occur at the project site during a major earthquake.

[27] U.S. Department of Agriculture, Natural Resources Conservation Service. "Web Soil Survey." Accessed February 24, 2021. https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx
[28] Cornerstone Earth Group. *Westbank Valley Title, 300 South 1st Street San Jose, CA.* June 10, 2020.
[29] AEI Consultants. *Phase I Environmental Site Assessment, 301 South 1st Street, San Jose, CA*. February 1, 2021.

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[30] and no active faults have been mapped on-site; therefore, the risk of rupture is low. Active faults near the project site are shown in Table 4.7-1.

Table 4.7-1: Active Faults Near the Project Site	
Fault	**Distance from Site**
Hayward (Southeast extension)	5.6 miles
Monte Vista-Shannon	7.3 miles
Calaveras	8.4 miles
Hayward (total length)	9.0 miles
San Andreas	11.9 miles

Liquefaction

Liquefaction occurs when water-saturated soils loose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project is located within a potential liquefaction hazard zone.[31]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. Guadalupe River is located approximately 0.35-mile west of the project site and Coyote Creek is approximately 0.9-mile east of the project site. At these distances, the potential for lateral spreading on-site is low.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within a Santa Clara County Landslide Hazard Zone.[32] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

[30] California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed February 24, 2021. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[31] Cornerstone Earth Group. *Westbank Valley Title, 300 South 1st Street San Jose, CA.* June 10, 2020.
[32] County of Santa Clara. *Geologic Hazards Zones, Map 20, 2012*. Accessed February 24, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

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

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045.[33] As mentioned in Section 4.7.1.2 above, no active faults have been mapped on-site and, as a result, the risk of rupture is low. The project site and area is relatively flat and have a low potential for lateral spreading during seismic events. Additionally, the project site is located within an area of low expansion potential.

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

Standard Permit Conditions

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

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

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

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

[33] U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System. Fact Sheed 2015-3009." Accessed February 24, 2021.

Standard Permit Conditions:

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

In addition to the Standard Permit Conditions, the project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's Municipal Code (refer to *Section 4.10, Hydrology and Water Quality*). Implementation of the Standard Permit Conditions and preparation of the SWPPP would reduce potential soil erosion impacts to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Geological Impacts from the Project

Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 6.7 in magnitude. Although the project is not located in a defined Alquist-Priolo Earthquake Fault Zone, the project site is located in a seismically active region and would experience strong shaking in the event of seismic activity. The project site and surrounding areas are, however, relatively flat and the probability of landslides and lateral spreading occurring on-site during a seismic event is low.

The site is located within an area with low soil expansion potential. Consistent with the General Plan and current standard practices in the City of San José, the project will be required to implement the following Standard Permit Conditions to reduce significant seismic and seismic-related impacts.

Standard Permit Conditions:

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

identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

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

Because the project would comply with City policies, Standard Permit Conditions, and existing regulations, the project would not result in a significant geologic impact or expose adjacent or nearby properties to landslide or erosion related hazards. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

Groundwater

As mentioned previously, groundwater levels on-site range from 12 to 16 feet bgs. The proposed project would be excavated to a depth of approximately 55 feet bgs for the four level below-grade parking structure. Because excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction. Please refer to Section 4.9 Hazards and Hazardous Materials for more information.

Consistent with the measures identified in the Downtown Strategy 2040 and City policy, the project would implement the following Standard Permit Condition to reduce and/or avoid impacts related to ground settlement.

Standard Permit Condition:

- If dewatering is needed, the design-level geotechnical investigation to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlement to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

With implementation of the measure, the project would result in a less than significant impact on groundwater. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

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

As discussed in Section 4.7.1.2 Existing Conditions, on-site soils have a low expansion potential. As noted under checklist question a, the project would be required to be built in conformance with a site-specific, design-level geotechnical investigation and applicable regulations (including the CBC) to reduce impacts from expansive soil to a less than significant level. Although the soils on-site have low expansion potential, the project would implement the previously identified Standard Permit Condition and would not result in substantial direct or indirect risks to life or property. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

As noted in Section 3.0 Project Description, the project would be served by the existing municipal sanitary sewer system and an independent wastewater treatment facility located within the adjacent Bo Town development if that development is approved. Assuming the Bo Town development is approved, the wastewater generated by the project and treated at the Bo Town development would be used in the proposed project for non-potable purposes. No septic systems are proposed on-site; therefore, the proposed project and independent wastewater treatment facility within the Bo Town development would not result in soils impacts due to the installation of septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The site would be excavated to a depth of approximately 55 feet for the below-grade parking garage which could potentially disturb unknown paleontological resources during excavation, grading and construction activities. Consistent with the Downtown Strategy 2040 FEIR, the project would comply with the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

Standard Permit Condition:

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but

is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.
With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.2.1 *Non-CEQA Effects*

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

Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on-site or on adjoining properties. Pursuant to the Downtown Strategy 2040 FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[34] shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

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

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

Because the proposed project would comply with the design-specific geotechnical report, the CBC, and regulations identified in the Downtown Strategy 2040 FEIR, the project would be consistent with General Plan Policies EC-4.2 and EC-4.4.

[34] The analysis must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California." CDMG Special Publication 117. 1997.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background*

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

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

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

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

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

Senate Bill 375

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

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

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

Climate Smart San José

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

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

Reach Building Code

In 2020, the San José City Council approved an update to Ordinance No. 30311 and the adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code update applies to new construction projects in San José. It requires all new construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

San José Municipal Code

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

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

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

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

Envision San Jose 2040 General Plan

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

Policy	Description
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to

	maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community
LU05.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[35]

4.8.1.3 *Existing Conditions*

The project site is currently developed with a three-story office building and a 95,000-square-foot paved surface parking lot. The existing office building is currently occupied by various legal and non-profit tenants. GHG emissions are generated by automobiles traveling to/from the site and lighting, heating, and cooling of the existing building.

[35] City of San José. *San José 2030 Greenhouse Gas Reduction Strategy.* November 2020.

4.8.2 Impact Discussion

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

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

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

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 39 months (1,170 construction workdays) and would not result in a permanent increase in emissions. Construction of the proposed project would not interfere with the implementation of SB 32 in 2030.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgement on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site, planned growth from build out of the Downtown Strategy 2040 FEIR, and incorporates mandatory GHG reduction measures required by the City, operation of the project would not interfere with the implementation of SB 32 in 2030 and would have a less than significant GHG emissions impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Envision San José 2040 General Plan

The project is consistent with the General Plan policies identified in Section 4.7.1.1, Regulatory Framework to reduce GHG emissions by:

- Constructing in accordance with CALGreen and Title 24
- Planting trees for shade
- Providing bicycle parking and shower facilities on-site
- Implementing a TDM plan

Additionally, the project site is located within the downtown area which is served by existing pedestrian, bicycle, and transit facilities with regional connections. The alternative modes of transportation available in the area would help reduce GHG emissions. The proposed project would be consistent with the City's General Plan policies intended to reduce GHG emissions. **[Same Impact as Approved Project (Less than Significant Impact)]**

2030 San José Greenhouse Gas Reduction Strategy

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010, and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified GHGRS that is consistent with AB 32 goals. The City of San José adopted the updated 2030 GHGRS in 2020 which includes seven strategies to reduce GHG emissions from individual development projects. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. The proposed project's consistency with these measures is summarized below (refer to Appendix F for more details).

The project is consistent with the General Plan designation and planned growth from build out of the General Plan FEIR. The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and CBC requirements as well as General Plan Action MS-2.11 which require development to incorporate green building practices through construction, architectural design, and site design techniques. The project proposes to achieve LEED Platinum certification and would be required to comply with the City's Reach Code. The proposed project would include solar panels on the roof. Additionally, as noted in Section 3.0 Project Description, electricity would be provided to the project site by SJCE and be automatically enrolled in the default program, Greensource, which provides 90 percent carbon-free energy. Enrollment in the Greensource program would achieve the greatest portion of GHG emissions for the project compared to the other measures proposed. The proposed project would implement all applicable GHGRS consistency options intended to reduce GHG emissions.

Climate Smart San José

Climate Smart San José, is a communitywide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

The project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City that is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The project would be consistent with applicable GHGRS and comply with Climate Smart San José. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing the emissions of GHGs. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The project site is currently developed with a three-story office building constructed in 1931 and an approximately 95,000 square foot surface parking lot.

4.9.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

The analysis of hazards and hazardous materials impacts is presented in the SEIR. No further analysis will be provided in this Initial Study.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

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

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[36] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs waste load allocation in the Basin Plan by March 2030.[37] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. 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.[38]

Water Resources Protection Ordinance and District Well Ordinance

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

[36] MRP Number CAS612008
[37] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.
[38] 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

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

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

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

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

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[39]

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Construction Dewatering Waste Discharge Requirements

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

Envision San José 2040 General Plan

The General Plan includes the following hydrology and water quality policies applicable to the proposed project.

[39] California Department of Water Resources, Division of Safety of Dams. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD). Accessed February 26, 2021.

Policy	Description
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site.
ER-10.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated flood plain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
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 and dispersion of dust and sediment runoff.
IN-3.1	Achieve minimum levels of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

4.10.1.2 *Existing Conditions*

Storm Drainage and Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes.

Stormwater from the project site drains into the Guadalupe River. Based on data from the EPA, the Guadalupe River is currently listed on the California 303(d) list for mercury and trash. [40]

Flooding

Based on the FEMA Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone D. Zone D is designated as areas where there is possible but undetermined flood hazards, as no analysis of the flood hazards has been conducted.[41] There are no City flood plain requirements for Flood Zone D.

Dam Failure

Based on the SCVWD dam failure inundation hazard maps the project site is located within the Lexington Dam and Anderson Dam failure inundation hazard zone.[42] [43]

Seiches, Tsunamis, and Mudflows

The project site is not located near a body of water such that it would be subject to inundation by a seiche or tsunami. The project site is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

Groundwater

Groundwater beneath the site has been found at a depth of 12-16 feet bgs.[44] Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

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[40] U.S. Environmental Protection Agency. "California 303(d) Listed Waters." Accessed October 8, 2021. https://iaspub.epa.gov/tmdl_waters10/attains_impaired_waters.impaired_waters_list?p_state=CA&p_cycle=2012

[41] Federal Emergency Management Agency. *Fact Sheet for Stakeholders, Unmapped Areas on Flood Hazard Maps, Understanding Zone D.* Accessed October 8, 2021. https://www.fema.gov/sites/default/files/2020-08/fema_understanding-zone-D-levees.pdf

[42] Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed February 26, 2021. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf

[43] Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed February 26, 2021. https://lex-co-test.sc.gov/sites/default/files/Documents/Lexington%20County/Departments/Public%20Works/LexingtonCountyFMP.pdf

[44] Cornerstone Earth Group. Geotechnical Investigation, Westbank Valley Title, 300 South 1st Street San Jose, California. June 10, 2021.

Hydromodification

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[45]

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐

[45] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Applicability Maps." Accessed October 8, 2021. https://scvurppp.org/swrp/docs-maps/

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

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

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

Construction Impacts

The proposed project would disturb the entire 2.84-acre project site; therefore, the project would be required to obtain an NPDES General Construction Permit. All development projects in the city are required to comply with the City of San José's Grading Ordinance whether or not it would be required to obtain an NPDES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to the NDPES General Construction Permit and City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts:

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and/or all trucks would be required to maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas would be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

The proposed project would include excavation to a maximum depth of 55 feet bgs for a four level below-grade parking garage. Groundwater is estimated to be approximately 12 to 16 feet bgs. It is anticipated that dewatering would be required during project construction. Dewatering would be temporary and would not have a long-term effect on groundwater supply (refer to Section 4.7 Geology and Soils and Section 4.9 Hazards and Hazardous Materials). Since excavation activities on-site would encounter groundwater, the project would be required to implement the following Standard Permit Conditions.

Standard Permit Conditions:

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

- Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

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

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

- Dewatering. The proposed project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and be filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a state-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.

With implementation of the identified construction measures and compliance with the NPDES General Construction Permit, construction of the proposed project would have a less than significant impact on water quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

Under existing conditions, approximately 99 percent (122,411 square feet) of the project site is comprised of impervious surfaces. Under project conditions, the site would be covered with approximately 72 percent (105,568 square feet) of impervious surfaces, a net decrease of approximately 27 percent (16,843 square feet).

The project would replace more than 10,000 square feet of impervious surface area and would be required to comply with the City of San José Post-Construction Urban Runoff Policy 6-29 and the MRP. The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the project currently proposes media filters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance

with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

As mentioned previously, the proposed project would include four levels of below-grade parking and excavation to a depth of approximately 55 feet bgs. Groundwater is estimated to be approximately 12 to 16 feet bgs. Based on this data, the proposed development could interfere with the shallow groundwater aquifer but not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers. It is anticipated that dewatering would be required during project construction. The project site is not located within a designated recharge area nor does it contribute to the recharging of any groundwater aquifers. This condition would not change once the project is constructed and operational. Therefore, the proposed project would not interfere with groundwater flow or impact the groundwater aquifer. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

The nearest waterbody to the project site is the Guadalupe River, approximately 0.35 miles west of the project site. The proposed project would not include work within Guadalupe River and would not result in alteration of the course of the river.

As noted above, the project site is currently developed with 122,411 square feet (99 percent) of impervious surfaces. With project implementation, impervious surfaces would be decrease to 105,568 square feet, a reduction of 16,843 square feet (27 percent) compared to existing conditions. The project would comply with the NPDES General Construction Permit to reduce the rate of stormwater runoff while removing pollutants. The Downtown Strategy 2040 FEIR concluded that compliance with the MRP and associated City policies would reduce the overall rate and volume of runoff entering the storm drain system. For these reasons, implementation of the proposed project

would not result in an increase in stormwater runoff, substantially alter the existing drainage pattern of the site resulting in substantial flooding on- or off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. A tsunami or tidal way is a series of water waves caused by displacing a large volume body of water, such as an ocean or a large lake. Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

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

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The General Plan includes the following land use policies applicable to the proposed project.

Policy	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.8	Create an attractive street presence with pedestrian-scaled buildings and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. • Include attractive and interesting pedestrian-oriented streetscape features such as furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. • Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this plan, and are compatible with the planned uses of the area. • Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. • Locate retail and other active uses at the street level.

- Create easily identifiable and accessible building entrances located on street frontages or paseos
- Accommodate the physical needs of elderly populations and persons with disabilities
- Integrate existing or proposed transit stops into project designs.

CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
LU-3.4	Facilitate development of retail and service establishments in Downtown and support regional- and local-serving businesses to further primary objectives of this Plan.
LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrian safety.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety, and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Zoning Ordinance

The Zoning Ordinance serves as an implementing tool for the General Plan by establishing detailed, parcel-specific development regulations and standards. The Zoning Ordinance divides the City of San José into zoning districts to guide future land uses.

4.11.1.2 *Existing Conditions*

Project Site

The approximately 2.84-acre project site is comprised of three parcels bounded by East San Carlos Street to the north, East San Salvador Street and existing commercial uses to the south, South 1st Street to the west and South 2nd Street to the east. The site is currently developed with a three-story building in the northwest corner and the remainder of the project site is developed with a paved surface parking lot. The project site is designated *Downtown* under the City's General Plan and is zoned *DC- Downtown Primary Commercial* in the City's Zoning Code.

The *Downtown* land use designation allows for office, retail, service, residential, and entertainment uses in the downtown with maximum building heights ranging from three to 30 stories. The maximum allowable FAR is 30.0 and the maximum residential density allowed is 800 dwelling units per acre.

Under the *DC* zoning district, development shall only be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements.

Surrounding Land Uses

The project site is surrounded by a variety of land uses including commercial entertainment venues, hotel, and office land uses, as well as a large park. The Guadalupe River and Guadalupe River trail are located approximately 0.35 miles west of the project site. The buildings in the project area range from one- to 16-stories. North of the project site East San Carlos Street is a four-lane Grand Boulevard with VTA light rail tracks occupying the center median.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☐	☒

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

a) Would the project physically divide an established community?

The project would demolish the existing commercial building and surface parking lot and construct a 20-story commercial building with two towers that would place jobs in proximity to housing, transit, and other services within the downtown core. Based on the Downtown Strategy 2040 FEIR, no new land uses are proposed for the greater downtown area that would conflict with established or proposed uses. The proposed office development would complement the existing uses in the project area and place future occupants in proximity to the downtown services. As a result, the project would not physically divide an established community. **[Same as Approved Project (Less than Significant Impact)]**

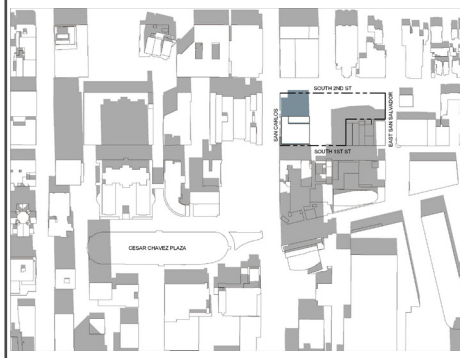
b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

As described within the individual sections of this document, with implementation of the City's Standard Permit Conditions, the required Downtown Strategy 2040 FEIR measures, and regulatory requirements, the project would not result in a significant environmental impact due to a conflict with plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Additionally, the project would be reviewed for compliance with applicable land use plans and policies. For these reasons, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project would construct a 20-story commercial building with two towers (approximately 301 feet tall) approximately 420 feet southeast of the Plaza de Cezar Chavez. To determine the specific shading of the proposed development on the surrounding land uses, a shade and shadow analysis was completed for the project. This provides an analysis of each season as well as the longest and shortest days of the year, covering the full spectrum of possible shade and shadow issues.

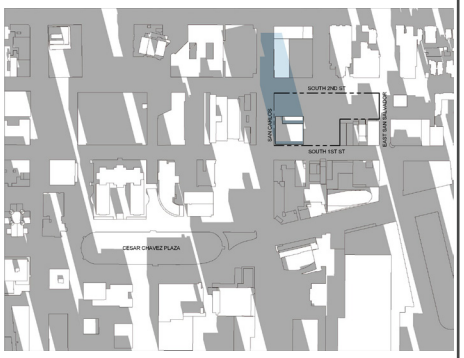
As indicated in the Downtown Strategy 2040 FEIR, the City identifies significant shade and shadow impacts as occurring when a building or other structure located in the downtown area substantially reduces natural sunlight on public open spaces, measured on the winter solstice when the sun is lowest in the sky (December 21st); the spring equinox, when day and night are approximately equal in length (March 21st); and the summer solstice when the sun is at its highest point in the sky (June 21st). A significant shade and shadow impact would occur if the project would result in an increase in shading of 10 percent or more onto any of the six major open space areas in the downtown San José area (St. James Park, Plaza of the Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, McEnery Park). Figure 4.11-1 and Figure 4.11-2 below provides data for 9:00 a.m., noon, and 3:00 p.m. for March 21, June 21, and December 21 under project conditions. Based on the shade and shadow analysis the proposed project would not create shade on Plaza de Cesar Chavez. The proposed project would have a less than significant shade and shadow impact. **[Less than Approved Project (No Impact)]**



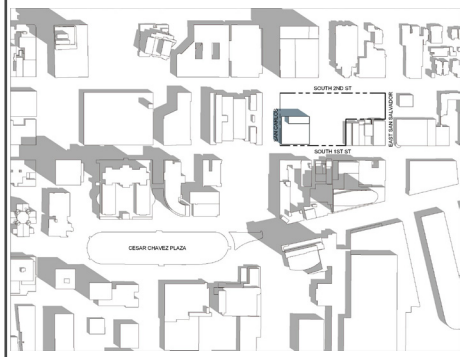
SPRING EQUINOX - 3PM

SUMMER SOLSTICE - 3PM

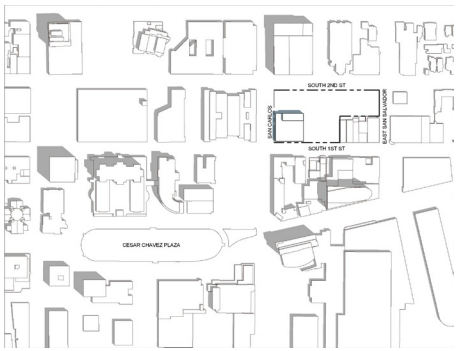
FALL EQUINOX- 3PM



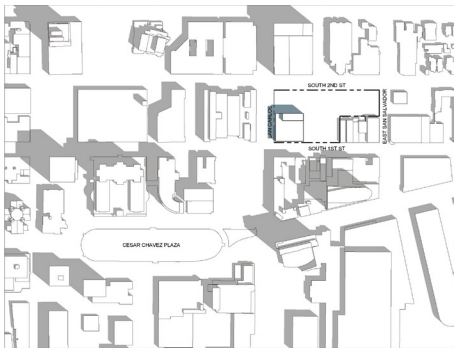
WINTER SOLSTICE - 3PM



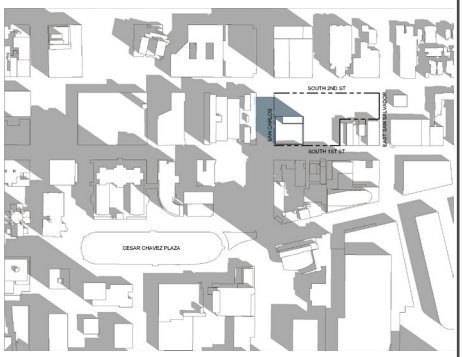
SPRING EQUINOX - 12PM



SUMMER SOLSTICE - 12PM

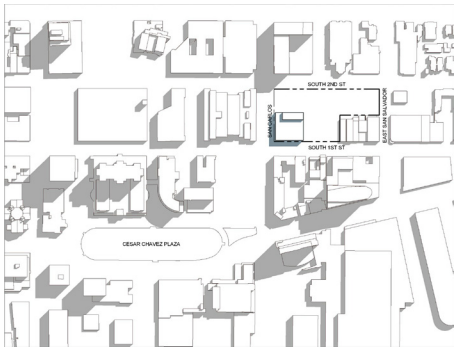


FALL EQUINOX- 12PM



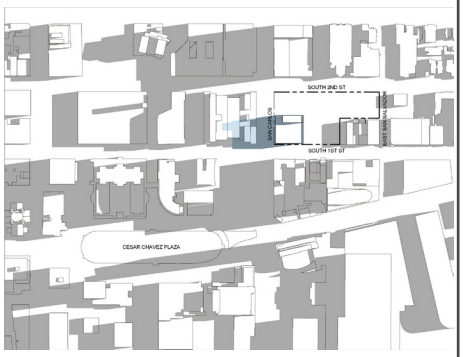
WINTER SOLSTICE - 12PM

SPRING EQUINOX - 9AM



SUMMER SOLSTICE - 9AM

FALL EQUINOX- 9AM



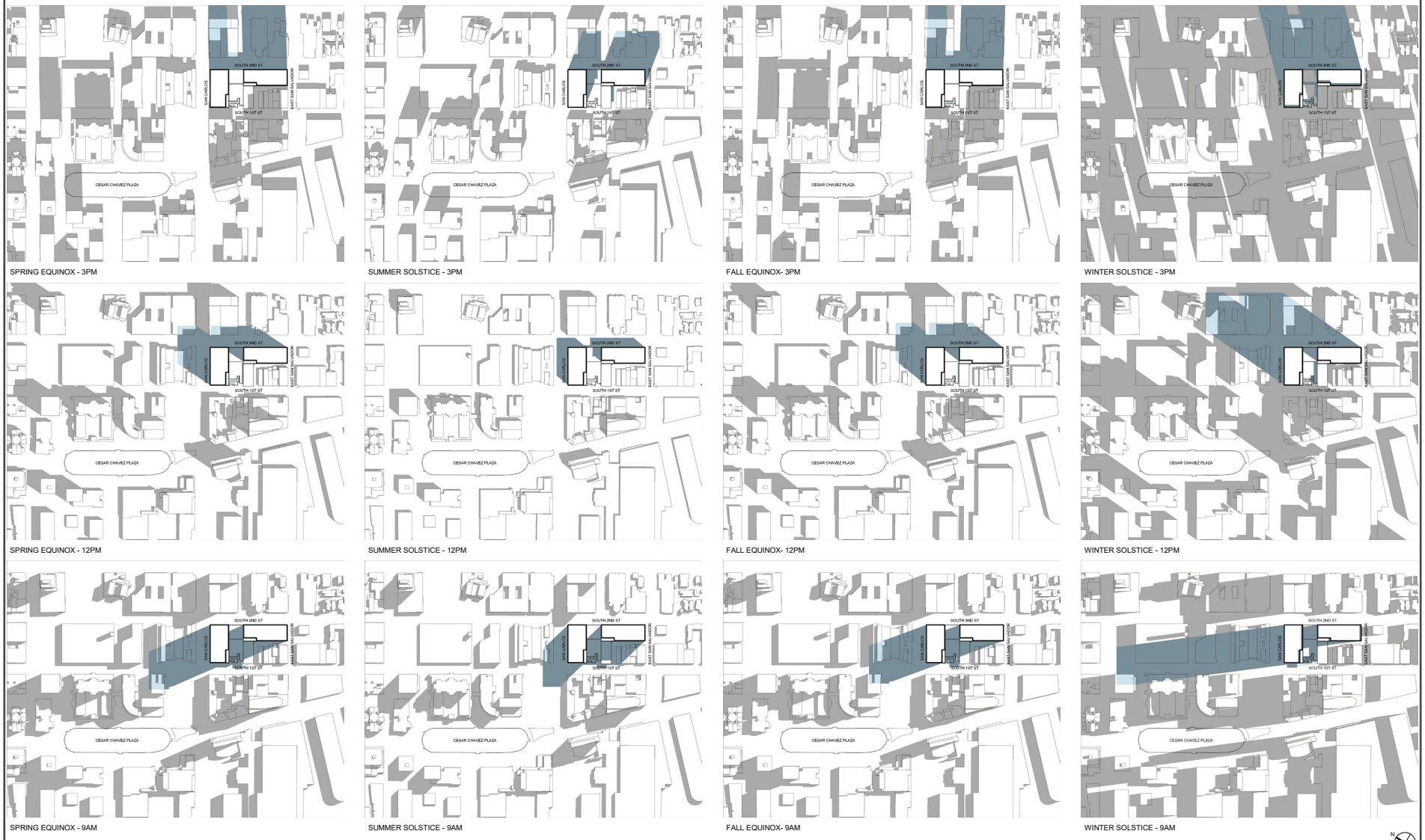
WINTER SOLSTICE - 9AM

PROJECT NORTH

Source: WRNS Studio, February 16, 2021.

SHADE AND SHADOW ANALYSIS, EXISTING CONDITIONS

FIGURE 4.11-1



Source: WRNS Studio, January 26, 2021.

SHADE AND SHADOW ANALYSIS, PROJECT CONDITIONS | FIGURE 4.11-2

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the city is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources.

The State Mining and Geology Board under the SMARA has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hill aera, San José does not have mineral deposits subject to SMARA.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	☐
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒	☐

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

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

The project site is not located within an area of San José with known mineral resources. As a result, implementation of the project would not result in impacts to known mineral resources. **[Same Impact as Approved Project (No Impact)**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

As mentioned above, the project site is not located within an area of San José with known mineral resources. The project site is located approximately three miles northwest of Communications Hill and would not result in the loss of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

4.13.1 Environmental Setting

The noise levels at the project site result primarily from vehicular traffic along South 1st Street, South 2nd Street, East 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 I-280 and SR 87 and occasional 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.[46]

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☐	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐	☐

The analysis of noise and vibration is presented in the SEIR. No further analysis will be provided in this Initial Study.

[46] 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.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[47]

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified PDAs.[48]

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

Envision San José 2040 General Plan

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

Policy	Description
IP-2.1	Gradually implement the development of new Urban Village areas by dividing them into three Plan Horizons and allowing a specific portion of the Urban Village areas to be

[47] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed February 26, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.

[48] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/. Accessed February 26, 2021.

developed within each Horizon. Identify the locations of current Plan Horizon Urban Villages presently available for residential development on the Land Use/Transportation Diagram.

IP-2.4 Conduct a Major Review of this 2040 General Plan by the City Council every four years to evaluate the City's achievement of key economic development, fiscal and infrastructure/service goals, greenhouse gas emission reduction goals and targets, water conservation and recycling goals, availability and affordability of housing supply, Healthful Community goals, and review changes and trends in land use and development. Based on this review, determine the City's readiness to begin the next General Plan Horizon or to modify the number of "pool" residential units available for non-specific Urban Village areas within the current Plan Horizon. Amend the Land Use/Transportation Diagram and/or 2040 General Plan goals, policies, and actions accordingly.

IP-10 Open Horizons for development in planned phases to give priority for new residential growth to occur in areas proximate to Downtown, with access to existing and planned transit facilities, and adequate infrastructure to support intensification, and proximate to other Growth Areas to contribute to the City's urban form.

IP-3.2 As part of the 2040 General Plan Annual Review, carefully monitor the jobs-to-employed resident ratio and, as a minimum, consider the following current development trends:

- Vacant land absorption;
- Amount of residential and economic development;
- Amount and value of non-residential construction;
- Number and types of housing units authorized by building permit, including number of affordable units, and development activity level in zonings, development permits, annexations and building permits;
- Status and current capacity of major infrastructure systems which are addressed in General Plan Level of Service policies (transportation, sanitary sewers and sewage treatment);
- Transit-ridership statistics and other measures of peak-hour diversion from single occupant vehicles;
- Status and implementation of Green Vision, General Plan policies, and other greenhouse gas reduction strategy measures, including greenhouse gas emission reductions compared to baseline and/or business-as-usual; and
- Levels of police, fire, parks and library services being provided by the City.

IP-19.1 Through a Major General Plan Review or, as needed, through the Annual General Plan review process, evaluate the Plan's consistency with housing development goals as determined by the State and regional agencies and take actions as necessary to address their requirements.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[49] The City currently has approximately 336,507 housing

[49] State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011 – 2020.* Sacramento, California, May 2020.

units[50] and, by 2040, the City's population is projected to reach 1,337,145 and 448,310 households.[51]

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

The existing three-story office building on-site currently supports 213 employees.[52] There are no housing units currently developed on the project site.

4.14.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

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

[50] Ibid.
[51] ABAG. *Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region*. 2017.
[52] Assuming that the project would accommodate four office employees per 1,000 square feet.

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

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

The project would construct 1,335,240 square feet of office space and 60,430 square feet of retail uses within the proposed building. The proposed project would generate approximately 5,341 office jobs and 201 retail jobs, resulting in a net increase of 5,329 jobs compared to existing conditions on-site.[53] The increase in jobs would incrementally decrease the overall jobs/housing imbalance within the City but would not increase population growth beyond what is assumed in the General Plan. The project does not propose to extend roads or other infrastructure to previously undeveloped areas and would not remove obstacles to population growth. For these reasons, the project would not induce substantial population growth in the city. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is developed with a three-story 58,362-square foot office building and 95,000-square foot surface parking lot. Construction of the project would not result in the displacement of people or existing housing or necessitate the construction of housing elsewhere. **[Same Impact as Approved Project (Less Than Significant Impact)].**

[53] Assuming 4 employees per 1,000 square feet of office uses and 3.33 employees per 1,000 square feet of retail uses. Source: Mark Soendjojo, Fehr & Peers. Personal Communication. October 4, 2021.

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

Government Code Section 65995 through 65998

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

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

Regional and Local

Countywide Trails Master Plan

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

Envision San José 2040 General Plan

The General Plan includes the following public services policies applicable to the proposed project.

Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.

4.15.1.2 *Existing Conditions*

Fire protection services for the project site are provided by the San José Fire Department (SJFD). Fire stations are located throughout the city to provide adequate response times to calls for service. The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the city. Emergency response is provided by 33 fire stations, 32 engines companies, nine truck companies, and three squad units.[54] The nearest fire station to the site is Station No. 30, located at 454 Auzerias Avenue, approximately 0.6 miles southwest of the project site. The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

[54] City of San José. "Annual Report on City Services 2019-20." Accessed October 8, 2021. https://www.sanjoseca.gov/home/showpublisheddocument/67957/637467496715000000

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street, approximately 1.6 miles north of the project site. The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The project would construct an office building and does not include any residential land uses that would generate school-age children.

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,537 acres of regional and neighborhood/community-serving parkland, including approximately 193 regional and City parks and 60 miles of trails.[55]

The nearest park to the project site is Plaza de Cesar Chavez Park, located approximately 450 feet northwest of the project site at 194 South Market Street.

Libraries

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library system consists of one main library (Dr. Martin Luther King Jr. Library) and 22 branch libraries. The nearest library to the site is Dr. Martin Luther King Jr. Library, located at 150 East San Fernando Street, approximately 0.2 miles northeast of the project site.

The City of San Jose currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed residents), but this trend is projected to reverse with full build out under the General Plan.[56]

[55] City of San José. "San Jose At-A-Glance." Accessed October 8, 2021. https://www.sanjose.org/meetings/quick-guides/san-jose-at-a-glance
[56] City of San José. *Envision San José 2040 General Plan*. November 2011.

4.15.2 Impact Discussion

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

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

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

The proposed office development would place more people on-site (up to 5,482 net new employees) during regular business hours compared to existing conditions which would increase demand for fire response and related emergency services. The Downtown Strategy 2040 FEIR concluded that, construction of new fire stations, other than those currently planned, would not be required to adequately serve the larger population.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions and promote public safety. No new facilities would be required as a result of the project, and implementation of the project would result in a physical impact on the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The existing 58,362-square foot office building is currently occupied. The proposed office development would place more people on-site (up to 5,482 net new employees) during regular business hours compared to existing conditions which would increase demand for police response and related emergency services. The Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 and General Plan would result in the need for additional police services and could require the expansion of existing police facilities. The Downtown Strategy 2040 FEIR concluded that with implementation of General Plan policies, impacts associated with expansion of existing police facilities would be less than significant. The project, by itself, would not require additional police services.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions and promote public safety. No new facilities would be required as a result of the project, and implementation of the project would result in a physical impact on the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project proposes to construct a commercial building with ground floor retail uses and would not include any residential development. No new students would be directly generated by the proposed project. As a result, the project would not require the construction or expansion of school facilities to maintain acceptable service ratios and performance objectives for schools. **[Less Impact as Approved Project (No Impact)]**

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

The proposed project does not include residential development or subdivision for residential purposes; therefore, the project would not be subject to PDO/PIO fees. Although future employees may use local parks or trails, weekday employees would not place a major physical burden on these

facilities. The project also includes various open space areas for use by the site occupants. In addition, the Downtown Strategy 2040 FEIR concluded that planned development under the Downtown Strategy would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur. Therefore, the proposed project would not have a significant impact on park facilities in the city. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Other public facilities, such as libraries and community centers, would not experience a substantial increase in demand as a result of the proposed project. The project would not require the construction or expansion of additional governmental facilities in order to maintain acceptable service ratios or performance objectives. Therefore, the proposed project would have a less than significant impact on other public facilities. [**Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

City of San José

Activate SJ Strategic Plan

The Activate SJ Strategic Plan is the City of San José's Department of Parks, Recreation, and Neighborhood Services' plan to maintain, improve, and expand facilities, programs, and services. The plan guides maintenance and development of the City's diverse park systems, recreational programs, and services.

Parkland Dedication Ordinance and the Park Impact Ordinance

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

Envision San José 2040 General Plan

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

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies

PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3-mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3-mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[57] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 197 neighborhood parks, 50 community centers, nine regional parks, and over 61 miles of urban trails. The nearest park to the project site is Plaza de Cesar Chavez Park, located approximately 450 feet northwest of the project site at 194 South Market Street. The nearest community center is Gardner Community Center, located approximately 0.9-mile southwest of the project site at 520 West Virginia Street.

4.16.2 Impact Discussion

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒	☐
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐

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

[57] City of San José. *Fast Facts*. July 1, 2019.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project does not include residential units and would not substantially increase the use of recreational facilities in the surrounding area. As mentioned in Section 4.15, Public Services, future employees of the project may use nearby parks and community centers. While the project could increase the use of these recreational facilities, it would not increase the demand on these facilities to the point of physical deterioration. Additionally, the proposed commercial building would include outdoor amenity and ground floor restaurant space which would reduce the use of public recreational facilities in the area. Therefore, implementation of the project would have a less than significant impact on recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Recreational facilities are not proposed as part of the project and employees do not generate the same demand for recreational facilities as residents. As a result, the project would not significantly increase demand for recreational facilities downtown.

The Downtown Strategy 2040 FEIR concluded that build out under the Downtown Strategy 2040 would contribute to demand for parkland and recreational facilities in the central/downtown planning area, however, full build out would not result in a new or more significant impact than previously identified in the Envision San José 2040 General Plan. As a result, the project would not have an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

This discussion is based, in part, on a Transportation Analysis prepared by Fehr & Peers in April 2022. A copy of this report is attached in Appendix I.

4.17.1 Environmental Setting

State

Regional Transportation Plan

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

Senate Bill 743

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

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

Regional and Local

Congestion Management Program

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

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy,

an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation, as listed in the following table.

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

Commute Mode Split Targets for 2040

Mode	Commute Mode Split Targets for 2040	
	2008	2040 Goal
Drive alone	77.8%	No more than 40%
Carpool	9.2%	At least 10%
Transit	4.1%	At least 20%
Bicycle	1.2%	At least 15%
Walk	1.8%	At least 15%
Other means (including work at home)	5.8	See Note 1

Source: 2008 data from American Community Survey (2008)

Note1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.

TR-1.4 Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

TR-1.6 Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

TR-2.8 Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

TR-3.3 As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

TR-5.3 Develop projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.

TR-8.4 Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

TR-8.6 Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

TR-8.9 Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

CD-2.3 Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate:

- Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
- Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
- Provide pedestrian connections as outlined in the Urban Design Connections Goal and Policies.
- Local retail and other active uses at the street level.
- Create easily identifiable and accessible building entrances located on street frontages or paseos.
- Accommodate the physical needs of elderly populations and persons with disabilities.
- Integrate existing or proposed transit stops into project designs.

CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

Transportation Analysis Policy (City Council Policy 5-1)

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

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

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

Downtown Streetscape Master Plan

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

San José Bike Plan 2020

The San José Bike Plan 2020 also known as the Bicycle Master Plan, defines the City's vision to make bicycling an integral part of daily life in San José/ The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling is convenient, safe, and commonplace. The Bicycle Master Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

4.17.1.1 *Existing Conditions*

Roadway Network

Regional Access

I-280 is an east-west freeway located south of the project site with four travel lanes in each direction. I-280 provides east-west movement through San José and neighboring cities. Access to the project site from I-280 is provided via Market Street, First Street, and Fourth Street.

SR 87 is north-south freeway located west of the project site with three travel lanes in each direction. One travel lane in each direction is designed as a High Occupancy Vehicle (HOV) lane, in effect from 5:00 – 9:00 a.m. and 3:00 – 7:00 p.m., Monday through Friday. SR 87 extends between US 101 to the north and SR 85 to the south. Access to the project site from SR 87 is provided via Park Avenue and Woz Way.

Local Access

Market Street runs north-south two blocks west of the project site and provides two travel lanes in each direction. On-street parking is provided on both sides of the street along some blocks. Market Street ends to the south where it converges with First Street just south of Reed Street, where it continues as First Street. Market Street extends to the north to Basset Street.

1st Street is a two- to four-lane roadway that extends from Alma Avenue north to Alviso, where it terminates. Within the downtown area, 1st Street is a two-lane northbound-only roadway that consists of one bus-only lane and one shared vehicular/bicycle lane. Northbound VTA light rail tracks run along the east side of the roadway between San Carlos Street and St. James Street. 1st Street runs along the west project frontage and provides access to the project site via East San Carlos Street and 2nd Street.

2nd Street is a two-lane, southbound one-way road between St. James Street and 1st Street. North of St. James Street, 2nd Street is a two-lane street allowing both northbound and southbound travel. 2nd Street ends in the south where it continues into 1st Street to the north as a dead-end just south of I-880. 2nd Street runs along the east project frontage and provides direct access to the project site.

San Salvador Street is a two-lane roadway which continues into 17th Street to the east and ends at Market Street to the west. San Salvador Street is directly adjacent to the southern boundary of the project site.

San Carlos Street is an east-west four-lane street located along the north project frontage. It extends as West San Carlos Street from Market Street westward to Bascom Avenue where it transitions into Stevens Creek Boulevard. San Carlos Street extends eastward as East San Carlos Street with a break between Fourth and Tenth Streets and terminating at 17th Street. In the vicinity of the project site, the VTA light rail tracks run along the middle of the street, separating the eastbound and westbound travel lanes.

Pedestrian Facilities

Pedestrian facilities in the project area consist of sidewalks along all the surrounding streets, including the project frontages along South 1st Street, South 2nd Street, East San Carlos Street, and East San Salvador Street. Crosswalks and pedestrian signal heads are located at all signalized intersections within the project area. The majority of the crosswalks at signalized intersections in the vicinity of the project site consist of high visibility crosswalks and countdown signal heads that enhance pedestrian visibility and safety while crossing the intersections. Sidewalks in the project area are wide and provide a continuous pedestrian network.

Bicycle Facilities

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

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

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

- San Carlos Street, between Woz Way and Fourth Street (including along the south project frontage)
- San Fernando Street, east of Tenth Street
- Second Street, between San Carlos Street and Julian Street
- 1st Street, between San Salvador Street and St. John Street (including along the east project frontage)
- San Salvador Street, between Fourth Street and Tenth Street (eastbound)
- William Street, between First Street and McLaughlin Avenue

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

- San Fernando Street, between Cahill Street and Tenth Street
- 2nd Street, between San Carlos Street and William Street
- 3rd Street between St. James and Reed Street

- 4th Street, between Santa Clara Street and San Salvador Street
- San Salvador Street, between Fourth Street and Tenth Street (westbound)
- Autumn Street, between Santa Clara Street and St. John Street
- Cahill Street, between San Fernando Street and Santa Clara Street

Existing bicycle facilities are shown on Figure 4.17-1.

Guadalupe River Park Trail

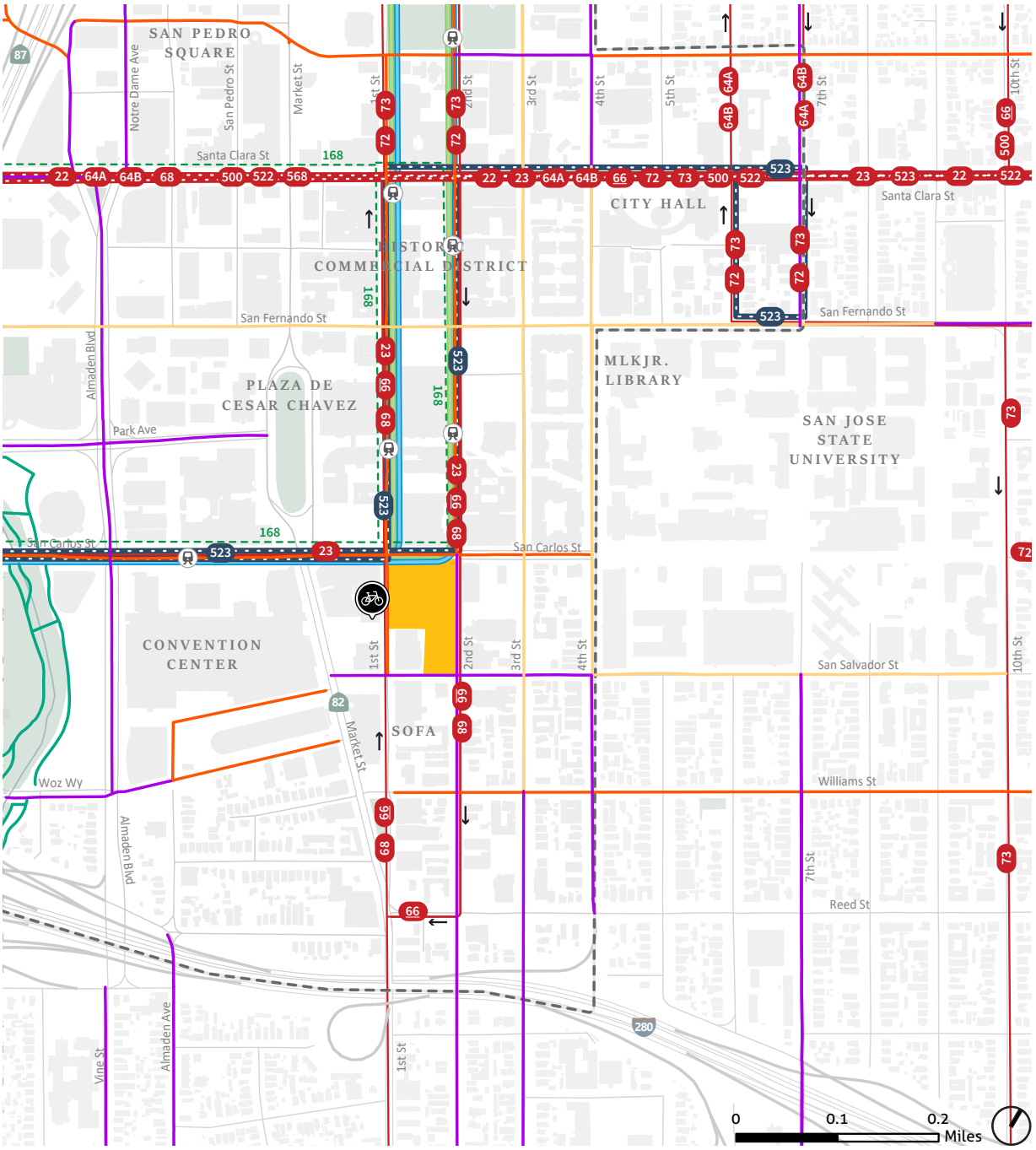
The Guadalupe River Park Trail is a multi-use trail that runs through the City of San José along the Guadalupe River, is shared between pedestrians and bicyclists, and is separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile Class I bikeway from Curtner Avenue to Willow Street, and between Virginia Street and Palm Street to Alviso. This trail system can be accessed just west of Almaden Boulevard and West San Carlos Street intersection, approximately 1,500 feet west of the project site.

Bike and Scooter Share Services

The Bay Wheels (formerly Ford Go Bike) bike share program allows users to rent and return bicycles at various locations. Bike share bikes can be rented and returned at designated docking stations throughout the downtown area. In addition, dockless bike and scooter rentals are available throughout the downtown area. These services provide electric bicycles and scooters with GPS self-locking systems that allow for rental and drop-off anywhere. Two bike share stations are located within 100 feet of the project site: one at the northwest corner of the South Market Street/West San Carlos Street intersection and the second at the southwest corner of the South 1st Street/East San Carlos Street intersection.

Transit Facilities

Existing transit services in the project area are provided by the VTA, Santa Crus METRO, Monterey-Salinas Transit (MST), Caltrain, Altamont Commuter Express (ACE), and Amtrak, as shown in Figure 4.17-1. The project site is located approximately 530 feet south of the San Antonio Light Rail Station platforms on 1st Street and 2nd Street, and approximately one mile from the Diridon Transit Center located on Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center.



Source: Valley Transportation Authority, San Jose Better Bike Plan 2025

Project Site

Downtown Boundary

Bus

Frequent Bus

Rapid Bus

Light Rail

Blue Line

Green Line

Light Rail Stop

Existing Bike Facilities

Class 1

Class 2

Class 3

Class 4

Bay Wheels Station

Source: Fehr & Peers, April 2022.

EXISTING BICYCLE AND TRANSIT FACILITIES | FIGURE 4.17-1

Bus Service

The downtown area is served by many VTA bus routes with high-frequency service. Rapid Bus services provide limited-stop service at frequent intervals (less than 15 minutes) during daytime. Within the downtown area, Rapid Routes 522 and 523 run along Santa Clara Street and San Carlos Street, respectively. Additionally, Frequent Bus services provide local service with average headways of 12 to 15 minutes during peak commute hours. Express Bus services provide direct service to and from major employment centers during peak commute hours only. The bus lines that operate within ¼-mile walking distance of the project site are listed in Table 4.17-1 below. The nearest bus stops with local service are located in the northwest corner of the project site on South 1st Street, and in the northeast corner of the project site on South 2nd Street San Carlos Street.

Table 4.17-1: VTA Bus Service in the Project Area

Route	Route Description	Nearest Stop	Headway[1] (minutes)
Frequent Route 22	Palo Alto Transit Center to Eastridge Transit Center	Santa Clara/1st Street	15
Frequent Route 23	De Anza College to Alum Rock Transit Center via Stevens Creek	San Carlos/Market Street	12-15
Local Route 64A	McKee & White Roads to Ohlone-Chynoweth	Santa Clara/1st Street	30[2]
Local Route 64B	McKee & White Roads to Almaden Expressway & Camden	Santa Clara/1st Street	30[2]
Frequent Route 66	North Milpitas to Kaiser San José	1st Street/ Paseo de San Antonio	12-15
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	1st Street/Paseo de San Antonio	15-20
Frequent Route 72	Downtown San José to Senter & Monterey Roads via McLaughlin	1st Street/Santa Clara Street	5-20
Frequent Route 73	Downtown San José to Senter & Monterey Roads via Senter Road	1st Street/Santa Clara Street	10-15
Express Route 167	Gilroy/Morgan Hill to San José Diridon Station	Santa Clara Street/Almaden	15-40
Rapid Route 500	San José Diridon Station to Downtown San José	Santa Clara Street/ First Street	15-20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	Santa Clara 1st Street	10-15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	First Street/Paseo de San Antonio	15-20

HWY17 Express (Route 970)	Downtown Santa Cruz/Scots Valley to Downtown San José	Diridon Transit Center	20-35
MST 55	Monterey-San José Express	Santa Clara/Alamden	N/A[3]
MST 86	King City – San José/SJ Airport	Santa Clara Almaden	N/A[4]

[1] Approximate headway during peak commute periods.

[2] Local Routes 64A and 64B provide frequent service between San José Diridon Station and McKee/White, with approximately 15-minute headways during peak commute periods.

[3] Weekday operation consists of one northbound trip and one southbound trip during morning and afternoon/evening commute periods.

[4] Weekday operation consists of one northbound trip during morning commute period and one southbound trip during afternoon/evening commute periods.

VTA Light Rail Transit Service

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

The Green (Winchester-Old Ironsides) and Blue (Baypointe-Santa Teresa) LRT lines operate along San Carlos Street, San Fernando Street, and along 1st and 2nd Streets, north of San Carlos Street. The San Antonio LRT station platform on 2nd Street is located approximately 730 feet north of the project site. The San José Diridon station is located along the Green LRT line and serves as a transfer point to Caltrain, ACE and Amtrak services.

Caltrain Service

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

Altamont Commuter Express Service

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

Amtrak Service

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

4.17.2 Impact Discussion

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

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

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

Pedestrian Facilities

As described in Section 4.17.1.2, existing facilities including sidewalks along all project frontages, crosswalks, and a paseo, through downtown provide connections to surrounding downtown destinations. As part of the project, new sidewalks and street trees on South 1st Street and South 2nd Street, East San Carlos Street, and East San Salvador Street would be installed along the project frontage. A mid-block crossing across the northbound side of Market Street provides access between Plaza de Cesar Chavez and Paseo de San Antonio. This paseo provides pedestrian-only access to shops and businesses between Market Street and San José State University. Another mid-block

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

The proposed project would include replacement of the existing curb ramps on South 2nd Street at East San Carlos Street and East San Salvador Street with new curb ramps consistent with City standards.

In addition, independent of the project, the City is proposing to install a half bulb-out at the northeast corner of the Market Street/San Carlos Street intersection. The curb extension would reduce the crossing distance of the crosswalk between the project site and Market Street median island. The improvement also includes upgrading existing curb ramps, signal modification, and relocation of an existing signal pole at the intersections' northeast corner.

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

Bicycle Facilities

As described in Section 4.17.1.2, bicycle facilities are provided along several roadways within the project area. Class III bicycle routes (shared bike lanes) are provided along the East San Carlos Street and South 1st Street frontages of the project site. There are Class II bike facilities on East San Salvador Street and 2nd Street.

The Guadalupe River multi-use trail is accessible and available to pedestrians and bicyclists just west of the Almaden Boulevard and West San Carlos Street intersection, approximately 1,400 feet west of the project site. In addition, two bike share stations are located within 100 feet of the project site. The project would include bicycle parking on-site in accordance with City requirements including long term bicycle storage and shower rooms in the first below-grade parking level. According to the Transportation Analysis prepared for the proposed project, existing bicycle facilities in the project are sufficient to serve the proposed project. **[Same Impact as Approved Project (Less than Significant Impact)]**

Transit Facilities

As described in Section 4.17.1.2, the project site is in proximity to major transit services that would provide for and encourage the use of multi-modal travel options and reduce the use of single-occupancy automobile travel. In addition, as described in Section 3.3 Transportation Demand Measures, the project includes TDM measures such as 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, to facilitate alternatives to single occupancy vehicle trips and reduce vehicle parking demand on-site. The project would not interfere with plans, ordinances, or policies regarding transit facilities. Additionally, the project would include installation

of a new 13-foot-wide solar bus shelter on South 1st Street adjacent to the project site which would be designed per VTA Guidelines. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

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

Based on the Downtown Strategy 2040 FEIR, future development within the downtown would result in low VMT and would have the lowest VMT of any plan area in the city. The proposed project is located within the downtown area which does not exceed VMT per job (refer to Figures 3.15-6 of the Downtown Strategy 2040 FEIR) and, therefore, would have a less than significant VMT impact. The project site is approximately one mile from the Diridon Transit Center, in walking distance of multiple bus and light rail routes and would have an FAR of 11.0. As a result, the project would not result in a significant VMT impact and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Access to the project site would be provided via two driveways on South 2nd Street and East San Salvador Street. The driveway on East San Salvador Street would provide full access while the driveway on South 2nd Street would provide right-in right-out access to the site. Emergency vehicle access to the site would be provided via either driveway or along any of the street frontages. Seven loading bays are proposed within the first level of below grade parking garage and are accessed via the two project driveways.

Access to the below-grade parking garage and loading bays would be controlled via a roll-up garage door at each driveway. The garage doors would remain open during normal business hours and

would be closed during off-hours with access provided for visitors using a key card or similar control system.

The project driveways would provide an adequate sight distance to access points that would ensure exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling on South 2nd Street and East San Salvador Street. Any landscaping and signage will be required to be located in such a way to ensure an unobstructed view from drivers exiting the project site. Based on a review of the site plan, adequate site distance in accordance with the American Association of State Highway Transportation Officials standards would be provided by the project.

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

d) Would the project result in inadequate emergency access?

Emergency vehicle access to the project site would be provided via two driveways on South 2nd Street and East San Salvador Street with widths of 23 feet. A review of the project's driveway and site access design found the driveways to be sufficient for trucks (including for emergency vehicle access). The final site design will be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. The project would not result in new or substantially more severe significant emergency access impacts than disclosed in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Non-CEQA Effects

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 transportation conditions affecting a proposed project.

Trip Generation Estimates

Project trips were estimated using vehicle-trip rates for "General Office Building" (Land Use Code 710) and "Shopping Center" (Land Use Code 820) published from the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, 10th Edition (2017).

The project would qualify for a location-based adjustment. Based on the City's VMT Evaluation Tool, the project site is located within a Central City Urban area. Therefore, a 31 percent reduction was applied to the estimated trips generated by office, a 16 percent reduction was applied to the estimated project trips generated by retail uses. Table 4.17-2 below provides a summary of the trip generation rate and reductions.

Table 4.17-2: Project Trip Generation Estimates							
Land Use	**Daily**	**AM Peak Hour**			**PM Peak Hour**		
		In	**Out**	**Total**	**In**	**Out**	**Total**
Proposed Land Uses							
Office (710)[1]	13,005	1,332	217	1,549	246	1,290	1,536
Location Based Reduction[2]	-4,032	-413	-67	-480	-76	-400	-476
Retail	2,281	35	22	57	110	120	230
Location Based Reduction	-365	-6	-3	-9	-18	-19	-37
Existing Land Uses							
Office	568	58	10	68	11	56	67
Location Based Reduction	-176	-18	-3	-21	-3	-18	-21
Net New Trips	**10,497**	**908**	**162**	**1,070**	**254**	**953**	**1,207**

Notes:

[1] Source: ITE Trip Generation Manual, 10th Edition, 2017, average trip generation rates.

[2] The project site is located within a central city urban area based on the City of San José Transportation Analysis Handbook (April 2020). The trip reductions are based on the percent of mode share for all other modes of travel besides vehicle.

As shown above, the project would generate up to 10,497 net new daily trips with 1,070 trips during the a.m. and 1,207 trips during the p.m. peak hour.

Vehicle Queuing

A vehicle queuing analysis was completed at key intersections in the project site vicinity. The queuing analysis shows that queues under existing conditions exceed the available storage length for the Market Street/San Carlos Street, Market Street/San Salvador Street, and First Street/Market Street/Reed Street intersections during the a.m. peak hour and at the 2nd Street/San Carlos Street intersection during the p.m. peak hour. The addition of project-generated trips is projected to lengthen the queue at Market Street/San Carlos Street, 2nd Street/ San Carlos Street, and First Street/San Salvador Street during the a.m. peak hour, and at the Market Street/San Carlos Street and First Street/Market Street/Reed Street intersections during the p.m. peak hour.

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

Bicycle Parking

The project proposes to provide bicycle parking in accordance with the City's Municipal Code (Table 20-190), which requires one bicycle parking space per 4,000 square feet of office space, two short-term bicycle parking spaces, and one long-term bicycle parking space for retail uses for a total of 287 spaces. [58] The bicycle parking would consist of at least 80 percent short-term and at-most 20 percent long-term spaces. The project proposes 284 bicycle parking spaces, therefore, three additional bicycle parking spaces are needed to meet the City's bicycle parking requirements.

Vehicle Parking

The project proposes to meet the vehicular parking requirements in the City's Municipal Code (Table 20-140), which requires 2.5 off-street parking spaces per 1,000 square feet of office uses for a total of 2,837 parking spaces.[59] No additional parking spaces are required for the retail use. Additionally, according to the City's Municipal Code, the project can take up to 57.5 percent reduction in required parking supply with implementation of a TDM program.[60] Incorporation of the proposed TDM would reduce the number of required parking spaces to 1,206 spaces. The project proposes 1,192 vehicle parking spaces within the below-grade parking garage; therefore, 14 additional spaces would be required to would meet the City's vehicular parking requirements.

[58] Per Municipal Code Section 20.90.050, "floor area" is defined as eight five percent of the "total gross floor area" of the building. Thus, parking supply requirement for the office uses are calculated based on 85 percent of the total gross floor area (1,335,240 square feet gross floor area x 85 percent = 1,134,954 square feet).
[59] Ibid.
[60] City of San Jose. Municipal Code Section 20.90.220, Reduction in required off-street parking spaces. September 10, 2021.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

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

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Guadalupe River is located approximately 0.35 miles west of the project site, which is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact on a tribal cultural resource and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City sent a letter to tribal representatives in the area to welcome participation in consultation processes for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific area of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the downtown area of the City of San José. On May 28, 2021, Tamien Nation requested notification of all non-exempt projects within the City of San José. The tribal representatives for the Ohlone Tribe, Tamien Nation, and other tribes known to have traditional lands and cultural places within the City of San José, were sent the Notice of Preparation for the proposed project on July 27, 2021. Consultation was requested on August 13, 2021, and subsequent meetings were held between staff and the Tamien Nation Chairwoman on October 14, 2021, and on January 13, 2022. The meetings concluded that the site is archeologically sensitive and is close to a village site. Therefore, the tribe recommends preliminary investigation, treatment plan, and monitoring during excavation phases. Further, the tribe recommends a plaque acknowledging the Native Americans affiliated with the area. Staff met with Tamien Nation on March 22, 2022 to confirm

mitigation measure language and received an edit request to the mitigation measures. Refer to the Cultural Resource Section in the SEIR for more information about archeological sensitivity and mitigation measures for subsurface finds. With these mitigation measures, any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR. Staff responded to Tamien Nation providing the latest version of the measures agreed to by all parties, confirmed that all mitigation measures and edits have been accepted, and concluded consultation on April 13, 2022. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As mentioned above, no tribal cultural resources have been identified based on available information. However, as indicated in the meeting with Tamien Nation, the site may be close to a tribal village area. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR (see response above). As a result, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency (i.e., the City of San José), in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

The following analysis is based, in part on a Water Supply Assessment prepared by San José Water (SJW) in October 2021. A copy of this report is provided in Appendix J of this document.

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San Jose adopted its most recent UWMP in June 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more

cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

Reducing indoor water use by 20 percent;

Reducing wastewater by 20 percent;

Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and

Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

Policy	Description
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

MS-1.4	Foster awareness in San Jose's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

San José Zero Waste Strategic Plan/Climate Smart San José

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

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.
Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

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

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

4.19.1.2 *Existing Conditions*

Water Services

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and Great Oaks Water Company. Water services to

the project site would be supplied by San José Water. The site is currently developed with an occupied commercial office building and surface parking lot and has a water demand of 469 gallons per day (gpd).[61]

Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[62] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations.

As noted above, the project site is developed with a three-story office building and surface parking lot. Existing land uses at the project site currently generate approximately 375 gallons per day of wastewater.[63] Existing uses currently connect to existing sanitary sewer lines in South 1st and South 2nd Streets.

Stormwater Drainage

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

Currently, the project site is 99 percent (121,411 square feet) covered with impervious surfaces. There are existing storm drain lines along South 1st Street, South 2nd Street and East San Salvador Street that currently serve the project site.

Solid Waste

Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were

[61] San Jose Water Company. *Water Supply Assessment, Valley Title Commercial Project.* October 2021.
[62] City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed February 26, 2021. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility
[63] Assuming wastewater is 80 percent of water demand.

approximately 600,000 tons of material generated in San José that was disposed in various landfills throughout the state. Newby Island, however, only received approximately 290,000 tons of that material. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. Existing uses on the project site currently generate 296 pounds per day of solid waste.

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

The project would construct approximately 1,335,240 square feet of office space and approximately 60,430 of retail uses and would use approximately 147,232 gpd of water, a net increase of 146,763 gpd compared to existing conditions.[64] Although water demand could exceed water supply during dry and multiple dry years after 2025 from full build out of the downtown, the Downtown Strategy 2040 FEIR concluded that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply. Therefore, implementation of the proposed project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

The proposed project is estimated to generate 117,786 gpd of wastewater.[65] As discussed in Section 3.0 Project Description, wastewater treatment for the proposed project would be provided through a combination of the City's municipal wastewater service and an independent wastewater treatment facility located in the adjacent Bo Town project to the south. However, for the purposes of a conservative analysis, it is assumed that the Bo Town project would not be approved, the independent wastewater facility would not be constructed, and 100 percent of the proposed project's wastewater would be transported through and treated at the City's wastewater system. The project would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity to accommodate wastewater generated by the proposed project. Since the proposed development is consistent with planned growth in the downtown area, the project would not exceed the City's allocated capacity at the Facility, with and without the wastewater treatment facility at the Bo Town development.

Impervious surfaces on-site would decrease by approximately 27 percent (16,843 square feet) under project conditions. The existing storm drainage system has sufficient capacity to support the current site conditions. All new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Additionally, the project would be required to comply with the RWQCB MRP (refer to Section 4.10 Hydrology and Water Quality).

The project would comply with CALGreen and the City's Private Sector Green Building Policy and would be consistent with planned growth in the Downtown Strategy 2040. Additionally, the project would comply with the policies and regulations identified in the Downtown Strategy 2040 FEIR. The project would utilize existing utility connections to connect to the City's water, storm drainage, electric, natural gas, and telecommunications facilities. Although the project would increase the demand on existing facilities in the city, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As discussed above, the project would connect to an independent wastewater treatment facility in the adjacent Bo Town site and connect to the City's existing wastewater system. The environmental effects of connecting to an independent wastewater

[64] San José Water Company. *Water Supply Assessment, Valley Title Commercial Project.* October 2021.
[65] Assuming wastewater is 80 percent of water demand.

treatment facility in the Bo Town site are discussed throughout this document. Relocation of existing facilities or construction of new wastewater facilities is not required. As a result, the proposed project would have a less than significant impact on these facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Future water demand from full build out of the downtown in 2040 would be approximately 7,533 acre-feet per year (AFY) which represents a 3.19 percent increase over the system wide 2013 water production of 146,776 acre-feet. Although the projected water demand would increase, SJW concluded that the increase was already accounted for in SJW's 2015 UWMP.[66] The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce demand for water generated by current and future development. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in downtown. Furthermore, as noted in Section 3.0 Project Description, the project would utilize recycled water generated at the Bo Town project for non-potable uses including toilet flushing, irrigation, and temperature regulation of the cooling towers, which would further reduce the project's water demand from that estimated in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As noted above, wastewater generated by the proposed project would be treated at the Facility and at an independent wastewater treatment facility located within the Bo Town project. However, for the purposes of a conservative analysis, it is assumed that the Bo Town project would not be approved, the independent wastewater facility would not be constructed, and all wastewater generated by the project would be directed to the municipal wastewater conveyance and treatment system. The proposed project would be consistent with the growth assumptions in the Downtown Strategy 2040 FEIR and the Facility would have adequate capacity to serve 100 percent of the project's projected demand in addition to the existing commitments (please refer to Impact UTIL-1). **[Same Impact as Approved Project (less than Significant Impact)]**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

[66] San Jose Water. *Water Supply Assessment, Valley Title Commercial Project.* October 2021.

The proposed project would generate approximately 7,344 pounds of solid waste per day, a net increase of 7,048 pounds per day over existing conditions on-site. As mentioned previously, NISL had approximately 14.6 million cubic yards of capacity remaining in December 2019. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Future projects (including the proposed project) would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of non-hazardous construction/demolition debris (by weight), and implement other waste reduction measures consistent with CALGreen requirements. The estimated increase in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

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

California Fire Code Chapter 47

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

California Public Resources Code Section 4442 through 4431

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

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

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

Fire Management Plans

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

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[67] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

Based on the FHSZ Map, the project site is not located within a FHSZ area.[68]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐

[67] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345

[68] CALFire. "Wildland Hazard & Building Codes." Accessed February 26, 2021. https://egis.fire.ca.gov/FHSZ/

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

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

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a.	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☒	☐	☐	☐
b.	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☒	☐	☐
c.	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

a) **Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?**

Implementation of the proposed project could result in a significant impact to air quality, cultural resources, and noise and vibration. The project's impact on these resource sections are evaluated in detail in the SEIR (refer to Section 3.1, 3.2, and 3.3 of the SEIR).

b) **Does the project have impacts that are individually limited, but cumulatively considerable?**

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental

effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The proposed project would result in temporary water quality, biological, hazardous and hazardous materials, and hydrology and water quality impacts during construction. With implementation of the identified Standard Permit Conditions, and measures identified in the Downtown Strategy 2040 FEIR, BMPs, mitigation measures, and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts is temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on water quality, hazards and hazardous materials, and biological resources.

Implementation of the proposed project could result in the loss of 13 trees on and adjacent to the site. Any tree removed would be replaced in accordance with the City's Standard Tree Replacement Ratios (refer to Table 4.4-2). The project also proposed to plant additional trees in excess of the replacement requirements. The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable long-term impact on biological resources.

Build out of the Downtown Strategy 2040 would result in a significant increase in GHG emissions under 2040 conditions. The project is consistent with planned growth in the downtown area and would not, by itself, result in significant emissions of GHG. Therefore, the project would not result in a cumulatively considerable impact.

As discussed in the respective sections, the proposed project would have no impact, a less than significant impact, or a less than significant impact with mitigation on aesthetics, agriculture and forestry resources, geology and soils, land use, mineral resources, population and housing, public services, recreation, and utility and service facilities. The project would not have a cumulatively considerable impact on these resource areas.

c) **Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment on human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. As discussed in section 4.9, Hazardous Materials, implementation of applicable regulations and policies and Standard Permit Conditions would result in less than significant hazardous materials impacts. The project's air quality and noise impacts would be potentially significant and are discussed in detail in the SEIR. No other direct or indirect adverse effects on human beings have been identified.

SECTION 5.0 REFERENCES

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
David Keyon, Principal Planner
Kara Hawkins, Environmental Project Manager

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Shannon George, Vice President/Principal Project Manager
Carolyn Neer, Project Manager
Ryan Osako, Graphic Artist

AEI Consultants
Environmental Site Assessment Consultants
Tory Golino

Fehr & Peers
Transportation Consultants
Franziska Church, AICP, Principal
Steve Davis, Senior Associate
Mark Soendjojo, Transportation Planner

HMH
Arborist
William Sowa

Holman and Associates
Archaeological Consultants
Sunshine Psota, Senior Associate

Illingworth & Rodkin, Inc.
Acoustical and Air Quality Consultants
James Reyff, Principal
Michael Thill, Principal
Carrie Janello, Senior Consultant
Casey Divine, Consultant

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

SECTION 7.0 ACRONYMS AND ABBREVIATIONS

ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos-containing material
AFY	Acre feet per year
ALUC	Airport Land Use Commission
ASTM	American Society for Testing and Materials
Basin Plan	Water Quality Control Plan for the San Francisco Bay Basin
BMPs	Best management practices
BGS	Below ground surface
CalARP	California Accidental Release Program
CBC	2019 California Building Code
CalEPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CDFW	California Department of Fish and Wildlife
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFCs	Chlorofluorocarbons
CGS	California Geological Survey
CH_e	Methane
CMP	Congestion Management Plan
CO_2	Carbon Dioxide
CO_2e	Carbon dioxide equivalents
CUPA	Certified Unified Program Agency
DTSC	Department of Toxic Substances Control
DPNS	Downtown Pedestrian Network Street
DSMP	Downtown Streetscape Master Plan
DSOD	Department of Water Resources, Division of Safety of Dams
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
EO	Executive Order

ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR Part 77	Federal Aviation Regulation, Part 77 Objects Affecting Navigable Airspace
FEMA	Federal Emergency Management Administration
FEIR	Final Environmental Impact Report
FHSZs	Fire Hazard Severity Zones
GHGRS	2030 Greenhouse Gas Reduction Strategy
General Plan SFEIR	2040 General Plan Supplemental FEIR
GWh	Gigawatt hours
Habitat Plan	Santa Clara Valley Habitat Plan/Natural Community Conservation Plan
HFC	Hydrofluorocarbons
HMP	Hydromodification management plan
HSP	Health and safety plan
HSWA	Federal Hazardous and Solid Waste Amendments
HOV	High occupancy vehicle
IS	Initial Study
IWM	Integrated Watershed Management
LBP	Lead-based paint
LOS	Level of service
LRAs	Local responsibility areas
LID	Low impact development
MTC	Metropolitan Transportation Commission
MBTA	Migratory Bird Treaty Act
$MMTCO_2e$	Million metric tons of CO_ee
MRP	Municipal Regional Stormwater Permit
NCP	National Contingency Plan
NOD	Notice of Determination
NESHAP	National Emission Standards for Hazardous Air Pollutants
NPDES	National Pollutant Discharge Elimination System
N_2O	Nitros oxide
NOI	Notice of Intent
NOT	Notice of Termination

OPR	Governor's Office of Planning and Research
PG&E	Pacific Gas & Electric
PDO	Park Dedication Ordinance
PIO	Park Impact Ordinance
PFCs	Perfluorocarbons
PCBs	Polychlorinated bipehenyls
PRGs	Preliminary Remediation Goals
PDAs	Priority Development Areas
RAW or RAP	Remedial action workplan
RCRA	Resource Conservation and Recovery Act
Reach Code	Reach Code Ordinance
RHNA	Regional Housing Needs Assessment
RWQCB	Regional Water Quality Control Board
SCCDEH	Santa Clara County Department of Environmental Health
SCIA	Sewer Capacity Impact Analysis
SCS	Sustainable Communities Strategy
SFHAs	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SF_6	Sulfur hexafluoride
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJUSD	San José Unified School District
SJW	San José Water
SMARA	Surface Mining and Reclamation Action
SMP	Site Management Plan
SMGB	State Mining and Geology Board
SSMP	Sewer System Management Plan
SRA	State responsibility areas
SR	State Route
SWRCB	State Water Resources Control Board
SWPPP	Stormwater Pollution Prevention Plan
TDM	Transportation Demand Management

TDF	Travel Demand Forecasting
TCMs	Treatment Control Measures
TCRs	Tribal Cultural Resources
Title 24	Title 24, Part 6 of the California Code of Regulations
The Facility	San José-Santa Clara Regional Wastewater Treatment Facility
TSCA	Toxic Substances Control Act
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VMT	Vehicle miles traveled
VOC	Volatile compounds
VTA	Valley Transportation Authority
Williamson Act	California Land Conservation Act
ZNE	Zero Net Carbon Emissions