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# Appendix B

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## Initial Study

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# Initial Study

## Garden Gate Tower

SP18-001 and T18-001  
SCH# 2018092072

JULY 2019





# **INITIAL STUDY**

## **GARDEN GATE TOWER PROJECT**

**File Nos. SP18-001; T18-001**

Prepared For:

City of San José  
200 East Santa Clara Street  
San José, CA 95113

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  - A-2: NOP – April 2018
- B. EIR Appendix B – Initial Study (This Document)
- C. Air Quality and GHG Analysis
  - C-1: Option 1 Air Quality/ Greenhouse Gas Assessment
  - C-2: Option 2 Air Quality and Greenhouse Gas Emissions Analysis
- D. Health Risk Assessment
- E. Cultural Resources Report
- F. Historical Resources Report
- G. Phase I and Phase II Environmental Site Assessment
  - G-1: Phase I Environmental Site Assessment
  - G-2: Phase II Environmental Site Assessment
- H. Acoustical Assessment
  - H-1: Option 1 Acoustical Assessment
  - H-2: Option 2 Noise Assessment
- I. Traffic Operations Analysis & Supplemental Traffic Analysis Memorandum, and Transportation Demand Management Program
- J. Water Supply Assessment



## ACRONYMS AND ABBREVIATIONS

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AB	Assembly Bill
ABAG	Association of Bay Area Governments
AHIF	Housing Impact Fee
AP	Alquist-Priolo
APE	Area of Potential Effect
ASTM	American Society for Testing and Materials
BAAQMD	Bay Area Air Quality Management District
BMPs	Best Management Practices
BRT	Bus Rapid Transit
BTEX	xylene
CAAQS	California Ambient Air Quality Standards
CalEEMod	California Emissions Estimator Model
CAL FIRE	California Department of Forestry and Fire Protection
CAP	Clean Air Plan
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CGP	Construction General Permit
CHRIS	California Historical Resources Information System
CMA	Congestion Management Agency
CMP	Congestion Management Plan
CN	Commercial Neighborhood
CNDDDB	California Natural Diversity Database
CNEL	Community Noise Equivalency Level
CO	carbon monoxide
(CO <sub>2</sub> e)	carbon dioxide equivalents
CRHR	California Register of Historical Resources
CUP	Conditional Use Permit
dBA	A-weighted decibels
DNL	day-night average sound level

DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
ESA	Environmental Site Assessment
ESLs	environmental screening levels
EOP	Emergency Operations Plan
FAA	Federal Aviation Administration
FCAA	Federal Clean Air Act
FHSZ	Fire Hazard Severity Zones
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gas
HPD	Historic Property Data
HREC	Historical Recognized Environmental Condition
HUD	Department of Housing and Urban Development
IHO	Inclusionary Housing Ordinance
LEED	Leadership in Energy and Environmental Design
LID	Low Impact Development
LOS	Level of Service
LRA	Local Responsibility Area
LUST	leaking underground storage tank
MBTA	Migratory Bird Treaty Act
MCL	Maximum Contaminant Level
MRP	Municipal Regional Stormwater NPDES Permit
MT	metric ton(s)
MTBE	methyl tertiary butyl ether
MTC	Metropolitan Transportation Commission
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCCP	Natural Communities Conservation Plan
NOI	Notice of Intent
NOx	nitrogen oxide(s)
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NWIC	Northwest Information Center

O <sub>3</sub>	ozone
OHP	Office of Historic Preservation
Pb	lead
PDO	Parkland Dedication Ordinance
PIO	Park Impact Ordinance
PM <sub>10</sub>	particulate matter
PM <sub>2.5</sub>	particulate matter 2.5 microns in diameter or less
REC	Recognized Environmental Condition
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWF	San José / Santa Clara Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SO <sub>2</sub>	sulfur dioxide
SB	Senate Bill
SCS	Sustainable Community Strategy
SCVHP	Santa Clara Valley Habitat Plan
SCVWD	Santa Clara Valley Water District
SJFD	San José Fire Department
sf	square foot/feet
SMARA	Surface Mining and Reclamation Act of 1975
SRA	State Responsibility Area
STC	Sound Transmission Class
SWMP	Storm Water Management Plan
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
TPH <sub>d</sub>	total petroleum hydrocarbons as diesel
TPH <sub>g</sub>	total petroleum hydrocarbons as gasoline
EPA	Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
UST	underground storage tank
VOC	volatile organic compound
VTA	Santa Clara Valley Transportation Authority
WPCP	Water Pollution Control Plant

## **SECTION 1.0 INTRODUCTION AND PURPOSE**

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### **1.1 PROJECT HISTORY**

This Initial Study has been prepared by the City of San José (City) as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed project to the decision makers who will be reviewing and considering the project.

The project site is located approximately 0.8 miles south of Downtown San José (City), as depicted in Figure 1: Regional Location Map. The project site is located on approximately 0.42 acre on the southeast corner of East Reed Street and South First, as depicted in Figure 2: Project Vicinity Map.

#### **Downtown Strategy 2040 Final Environmental Impact Report**

On December 18, 2018, the City of San José approved the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which updated the Downtown Strategy 2000 to be consistent with the Envision San José 2040 General Plan, which is a long-range program for the redevelopment and preservation of the central core of San José. The Downtown Strategy 2040 increased the amount of new commercial office by an additional three million square feet (approximately 10,000 jobs) to be transferred from other areas of the City consistent with the General Plan Four-Year Review recommendations. The plan includes the following development:

- 14.2 million square feet of office,
- 1.4 million square feet of retail space,
- 14,360 residential units, and
- 3,600 hotel guest rooms

While the certified Downtown Strategy 2040 FEIR (SCH#2003042127) was primarily a broad range, program-level environmental document, it developed project-level information whenever possible, such as when a specific site was identified for a specific size and type of development. All subsequent development that has occurred as part of the Downtown Strategy 2040 has had project specific supplemental environmental review. The South First Area Strategic Development Plan was incorporated by reference in the Downtown Strategy 2000 and provides guidance for specific development projects proposed within the South First Area of Downtown.

#### **Envision San José 2040 General Plan Final and Supplemental Environmental Impact Report**

In November 2011, the City of San José approved the Envision San José 2040 General Plan (General Plan), which is a long-range program for the future growth of the City. The General Plan Final Environmental Impact Report (FEIR) (SCH#2009072096), as amended, was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project level information whenever possible, such as when

a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. For all other effects, it was concluded that implementation of General Plan policies, existing regulations, and adopted plans and policies would reduce the impact to a less than significant level. These conclusions are generally based on the assumption that all future projects allowed under the Envision San José 2040 General Plan will reduce impacts to a less than significant level through measures included in project design or as conditions of approval, consistent with the policies and procedures for protecting environmental quality in the Envision San José 2040 General Plan. Future development projects will be evaluated for consistency with this assumption and may require supplemental analysis to identify additional mitigation measures.

In December 2015, the City of San José also approved an Envision San José 2040 General Plan Supplemental FEIR (General Plan SEIR) to include and update the greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and SEIR, to modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same.

## 1.2 CURRENT APPLICATION

The applicant proposes to develop a residential project with ground floor neighborhood-oriented retail in a 27-story high-rise tower on an approximately 0.42-acre property located on the southeast corner of East Reed Street and South 1<sup>st</sup> Street. Two design options are proposed in order to provide flexibility in the number and design configuration of the residential units proposed and in order to meet increased market demand for a broader typology of multifamily residential living options (see *Project Description* below). In accordance with the California Environmental Quality Act (CEQA) (California Public Resources Code Section 21000 et seq.) and its Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), this Initial Study has been prepared to evaluate the potential environmental effects associated with the construction and operation of the proposed Garden Gate Tower project.

Pursuant to Section 15367 of the State CEQA Guidelines, the City is the Lead Agency charged with the responsibility of deciding whether to approve the proposed project.

With respect to the requirements for an Initial Study, the applicable subsections of the State CEQA Guidelines Section 15063 are:

- (A.1) All phases of project planning, implementation, and operation must be considered in the Initial Study of the project.
- (A.3) An Initial Study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR.
- (B.2) The Lead Agency shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.

The purposes of an Initial Study are to:

- (C.1) Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.

- (C.2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.
- (C.3) Facilitate environmental assessment early in the design of a project;
- (C.4) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
- (C.5) Eliminate unnecessary EIRs;

An Initial Study shall contain in brief form:

- (D.1) A description of the project including the location of the project;
- (D.2) An identification of the environmental setting;
- (D.3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.
- (D.4) A discussion of the ways to mitigate the significant effects identified, if any;
- (D.5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;
- (D.6) The name of the person or persons who prepared or participated in the Initial Study.
- (E) If the project is to be carried out by a private person or private organization, the Lead Agency may require such person or organization to submit data and information which will enable the Lead Agency to prepare the Initial Study. Any person may submit any information in any form to assist a Lead Agency in preparing an Initial Study.
- (F) As soon as a Lead Agency has determined that an Initial Study will be required for the project, the Lead Agency shall consult informally with all Responsible Agencies and all Trustee Agencies responsible for resources affected by the project to obtain the recommendations of those agencies as to whether an EIR or a Negative Declaration should be prepared. During or immediately after preparation of an Initial Study for a private project, the Lead Agency may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study.

### **1.3 ENVIRONMENTAL SETTING**

Existing conditions are the on-site and (as relevant) regional environmental conditions in existence in March 2019 (the time of commencement of the Initial Study and issuance of the revised Notice of Preparation for the SEIR) pursuant to the *California Environmental Quality Act (CEQA) Guidelines* Section 15125.

### **1.4 TIERING OF THE ENVIRONMENTAL REVIEW**

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, this Initial Study, as part of the Supplemental Environmental Impact Report (SEIR), tiers from the certified Downtown Strategy 2040 FEIR (SCH#2003042127).

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

Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

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

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the proposed project description and knowledge of the project site, the City has concluded that the proposed project would result in new impacts not previously disclosed in the Downtown Strategy 2040 FEIR. For these reasons, a supplemental EIR is required and will be prepared for the proposed project to analyze the impacts of the project on Aesthetics, Cultural Resources, Energy, and Land Use. Both project options (Option 1: Traditional Multi-Family Development and Option 2: Co-Living Community Option) will be evaluated in equal detail in the SEIR.

All documents referenced in this Initial Study are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, Tower 3<sup>rd</sup> Floor, during normal business hours.



## **SECTION 2.0 PROJECT INFORMATION**

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### **2.1 PROJECT TITLE AND FILE NUMBER**

Garden Gate Tower Project  
File Nos. SP18-001 and T18-001

### **2.2 PROJECT LOCATION**

The 0.42-acre project site is located at 600 South 1<sup>st</sup> Street in the City of San José is on the southeast corner of South 1<sup>st</sup> Street and Reed Street. Please see Figure 1: Regional Map and Figure 2: Project Vicinity Map.

### **2.3 LEAD AGENCY CONTACT**

City of San José  
200 East Santa Clara Street, 3<sup>rd</sup> Floor  
San José, California 95113

Planning Project Manager: Cassandra van der Zweep  
Phone: (408) 535-7659  
Email: Cassandra.vanderzweep@sanjoseca.gov

Environmental Project Manager: Krinjal Mathur  
Phone: (408) 535-7874  
Email: krinjal.mathur@sanjoseca.gov

### **2.4 PROPERTY OWNER/PROJECT APPLICANT**

KT Urban  
21710 Stevens Creek Boulevard, Suite 200  
Cupertino, California 95014

### **2.5 ASSESSOR'S PARCEL NUMBER**

472-26-090; 472-26-089

### **2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS**

#### ***Existing***

General Plan: *Downtown*  
Zoning: *Downtown Primary Commercial (DC)*

***Proposed***

General Plan: *Downtown*

Zoning: *Downtown Primary Commercial (DC)*

**2.7 HABITAT PLAN DESIGNATIONS**

Land Cover Designation: *Urban-Suburban*

Development Zone: *Urban Development greater than two acres covered*

Fee Zone: *Urban Area*

Owl Conservation Zone: *N/A*

**2.8 PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS**

- Special Use Permit
- Site Development Permit
- Tentative Map
- Public Works Clearance(s): Grading Permits
- Building Clearance(s): Demolition Permit, Building Permit, and Occupancy Permits

## SECTION 3.0 PROJECT DESCRIPTION AND LOCATION

### 3.1 BACKGROUND

In December 2018, the City of San José adopted the Downtown Strategy 2040 Plan and associated EIR. The Downtown Strategy 2040 Plan was prepared due to an increased interest in Downtown development, especially in the residential and office sectors, and because the horizon year of the Downtown Strategy 2000 has passed. The Downtown Strategy 2040 was updated to include an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040.

Subsequently, in March 2019, the City Council amended the City’s Zoning Ordinance (Title 20 of the San José Municipal Code) to establish a Co-Living Community as an allowed residential use within two Downtown Zoning Districts (DC Downtown Primary Commercial and DC-NT1 Downtown Commercial - Neighborhood Transition). The purpose for this ordinance was to build upon existing efforts to intensify density in approved growth areas under the City’s Envision San José 2040 General Plan to address and reduce the City’s current housing crisis. Co-Living Community is defined under Zoning Ordinance Section Chapter 20.200 as a residential facility where individual secure bedrooms rented to one or two persons, are provided for an established period of time with a lease agreement, in exchange for an agreed payment of a fixed amount of money. Per Section 20.80.290 of the City’s Zoning Ordinance, a Co-Living Community must have shared full kitchen facilities that serve six or more bedrooms, and must include interior common space excluding janitorial storage, laundry facilities and common hallways. A bedroom that contains a full kitchen facility would not be considered a Co-Living Community.

### 3.2 PROPOSED DEVELOPMENT

As a result of the newly adopted Co-Living Community ordinance, two-floor plan options (Option 1: Traditional Multi-Family Development and Option 2: Co-Living Option) are proposed for the project. Both options would involve the same building footprint and nearly the same exterior building architecture with the exception of some minor differences in the ground floor layout. A project summary of each option is provided below:

Component	Option 1: Traditional Multi-Family	Option 2: Co-Living
Residential	290 units	850 bedrooms <sup>1</sup>
Retail	4,840 square feet	6,000 square feet
Parking	232 Vehicle/74 Bike	124 Vehicle/180 Bike
Total Building Area	513,333 square feet	510,738 square feet
FAR	24	24

<sup>1</sup> Consistent with other co-living projects, the City of San José assumes 1.5 people per bedroom to calculate the anticipated number of residents. That value (1,275 residents) is divided by the average number of people per household in the Downtown, which is 2.1 (per Census data) to calculate the number of units towards the capacity of the Downtown Strategy 2040 FEIR. This would result in 607 units equivalent for this project.

### **Option 1: Traditional Multi-Family Development**

The proposed Option 1 is a mixed-use residential building of twenty-seven levels with a maximum height of 283 feet. The proposed Option 1 includes 290 residential units. The ground level will include 4,840 square-feet of neighborhood-oriented retail area divided into four potential spaces. The primary entrance to the building lobby would be on Reed Street. The floor plan consists of:

- Levels 1 through 4 would include the building lobby, the commercial spaces, and parking areas.
- Levels 5 through 25 include a mix of studio, one-bedroom, two-bedroom, and penthouse units.
- Level 26 includes 11 units: 2 studio units, 3 two-bedrooms units, 6 one-bedrooms units, with space for the pool vault and pool equipment.
- The top level, Level 27, is designed with 6 units: 2 studio units, 3 two-bedroom units, 1 one-bedroom unit, a swimming pool, common terrace, and amenity area.

The proposed Option 1 would include 13,912 square feet of private open space (such as balconies) and 4,904 square feet of common open space. A rendering of the proposed structure is shown in Figure 3: Proposed Garden Gate Tower Rendering. A site plan for level one of Option 1 is shown in Figure 4: Option 1 Ground Floor Site Plan. A typical residential floor plan for Option 1 is shown in Figure 5: Option 1 Typical Residential Floor Plan.

Total on-site parking would include 232 residential parking spaces. The parking garage would be located underground (B1-B4) and levels 3 through 4 (L3 – L4). Vehicular parking in levels B1-B4 would be accessible from a right turn off South 1<sup>st</sup> Street Northbound and parking on levels L2 – L4 would be accessed through the Alley off East Reed Street. Additionally, 74 bicycle racks would be located on the ground floor in a secured bike parking room with access from the Alley.

### **Option 2: Co-Living Community Option**

Under Option 2, the proposed project would be a mixed-use residential building of twenty-seven levels with a maximum height of 283 feet. Option 2 proposes up to 793 bedrooms in Co-Living Configuration. The ground level would include approximately 6,000 square feet of retail, lobby and a loading area. The primary entrance to the building lobby for the residences would be on East Reed Street. The ground floor site plan is shown in Figure 6: Option 2 Ground Floor Site Plan. Similar to Option 1, building amenities would include a rooftop outdoor terrace with pool and fitness room. The floor plan consists of:

- Levels 1 would include the building lobby, the commercial spaces, and parking areas.
- Levels 2 through 26 include approximately 32 bedrooms per level with shared bathroom facilities. Each floor would have two shared kitchen areas with dining areas and common areas in addition to shared laundry facilities, mechanical rooms and janitorial storage areas.
- Level 27, the top level, is designed with a swimming pool, common terrace, and amenity area.

The proposed Option 2 would include up to 850 bedrooms units with a combined total of approximately 425,897 square feet (including open space areas). A typical residential floor plans is shown in Figure 7: Option 2 Typical Residential Floor Plan.

Depending on market demand at the time of construction, the floor plans could be modified to arrange the bedrooms within a four- to six-bedroom cluster consistent with Section 20.80.290(B)(3) of the City's Zoning Ordinance. Each bedroom cluster could contain a partial kitchen and bath facilities. All other Co-Living Community requirements related to private and public open space would apply to this configuration.

Option 2 would include Transportation Demand Management Program to reduce the number of vehicle trips generated by the project and to reduce the required parking. Option 2 proposes a four-story below-grade with a total of 124 parking stalls, and unlike Option 1, no above grade parking is proposed. The project would include five accessible spaces and eight electric vehicle charging stations. The parking garage would be located underground (B1-B4). No visitor or guest parking would be available, and all parking would be reserved. Vehicular parking in the basement would be accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor with 180 bicycle racks. Access to the bike room would be from the alley on the eastern side of the building as well as the interior of the building. The building design under Option 2 would look similar to the building rendering shown in Figure 5, some of the balcony sizes and locations would change.

### **3.3 SUSTAINABLE PROJECT FEATURES**

The applicant plans to achieve at least a LEED NC v4 Certification for the Garden Gate Tower project. Sustainable project features would include:

- High performance glazing reduces solar heat gain to the interior of the building thereby reducing the energy required for cooling.
- Optimized envelope examines the building holistically to ensure the proper levels of insulation are provided in all surfaces to reduce the overall energy use of the building.
- Daylighting relies on sunlight for lighting of interior common spaces through the use of photoelectric sensors that reduce the artificial light levels when adequate daylight is sensed, thereby reducing electric power use.
- High efficiency water-source heat pumps are specified to a higher SEER value than industry standard to recognize energy savings of 15-20%.
- Variable-speed pumping systems for domestic cold water turn back the pumping flow when demand for water is low, thereby reducing power required for pumping.
- Condensing boilers for domestic hot water operate at higher efficiencies (90-96%) than industry standard (80%), reducing the use of natural gas.
- Garage exhaust fans with CO based controls operate at full flow only when carbon monoxide from vehicle exhaust is detected, eliminating the need for exhaust fans to run continuously at full flow.

Vehicular access to the project site would consist of a garage driveway up on the Alley accessed from East Reed Street and a garage entry down on South 1<sup>st</sup> Street. The Alley has a width of 24 feet and therefore would limit the types of vehicles able to enter the garage.

Construction of the proposed project is expected to commence in the Spring of 2020 and construction would be 26 months.

### **3.4 EXISTING PROJECT SITE**

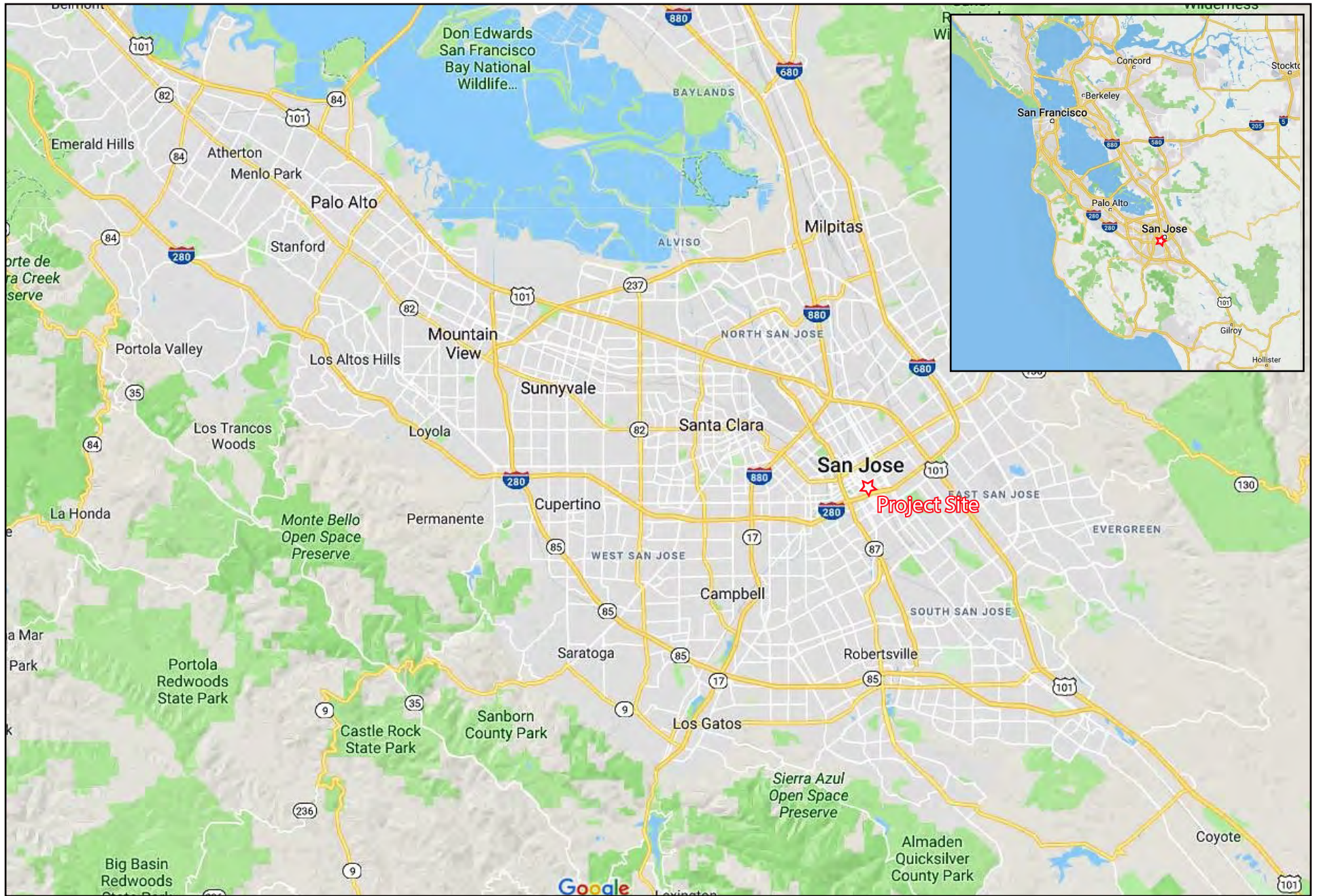
The project site is currently located on parcel 472-26-090 and 472-26-089. Currently 600 South 1<sup>st</sup> Street is a surface parking lot. Adjacent 618 South 1<sup>st</sup> Street is a single-story brick building used as office with a parking lot to the south side and 8 East Reed Street is a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

One driveway allows access to the south parking lot from South 1<sup>st</sup> Street. To exit this parking lot, vehicles must continue onto the Alley and exit onto East Reed Street. Another driveway allows access to the northern parking lot from East Reed Street. There is existing utility access (water, sewer, electricity, gas) to the project site and no native habitat exists on the site.

### **3.5 PROJECT SITE VICINITY**

The project site is located in an urban area with a mix of uses including commercial, residential, urban residential, and light industrial.

The project site is surrounded by residential uses to the south, east and west, and a 5-story residential tower in construction to the north. The residences are a mix of single-family and multi-family, but many are more than 50 years old. Interstate 280 runs south of the project site, South 1<sup>st</sup> Street to the west, East Reed Street to the North and an Alley to the east. The project site is near Valley Transportation Authority (VTA) bus stop for routes 66, 68, and 82.



Source: Kimley-Horn and Associates, 2018

## Figure 1: Regional Location Map

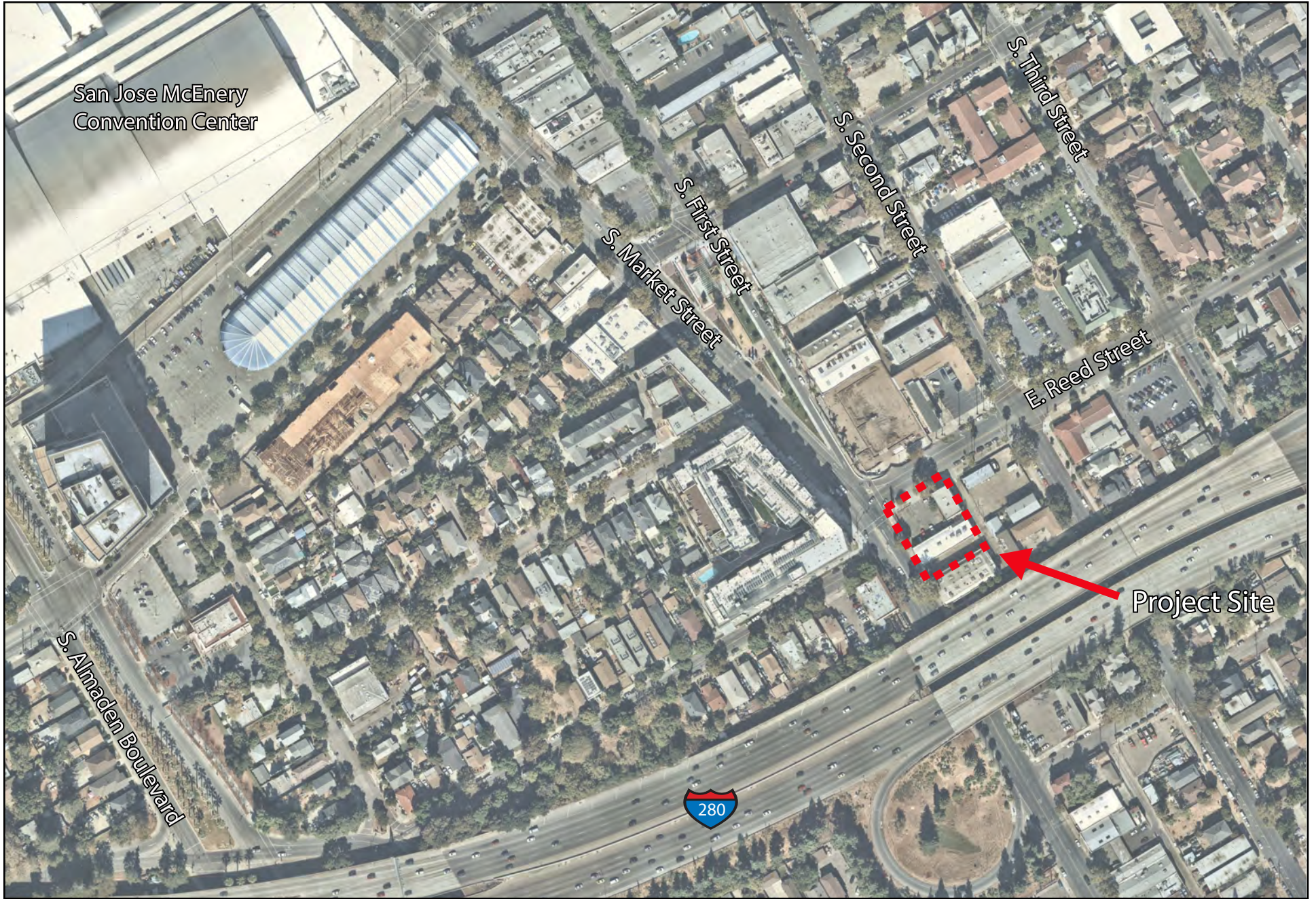
Garden Gate Tower



Not to scale

**Kimley»Horn**

Expect More. Experience Better.



Source: Kimley-Horn and Associates, 2018

**Figure 2: Project Vicinity Map**  
Garden Gate Tower



Not to scale

**Kimley»Horn**  
Expect More. Experience Better.





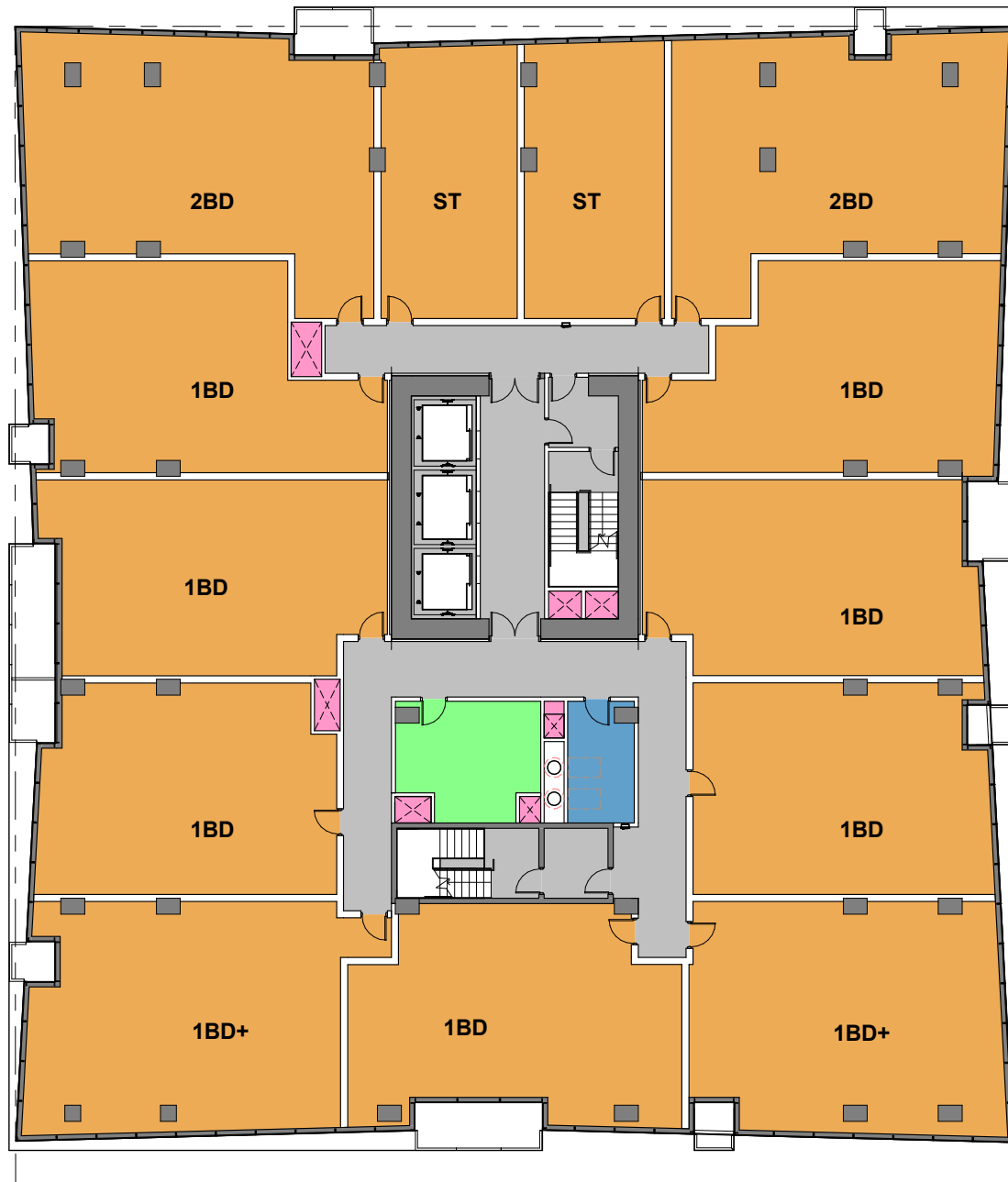
Source: C2K Architecture, Inc. 2018

**Figure 3: Proposed Garden Gate Tower Rendering**  
Garden Gate Tower



Source: C2K Architecture, 2019

**Figure 4: Option 1 Ground Floor Site Plan**  
Garden Gate Tower



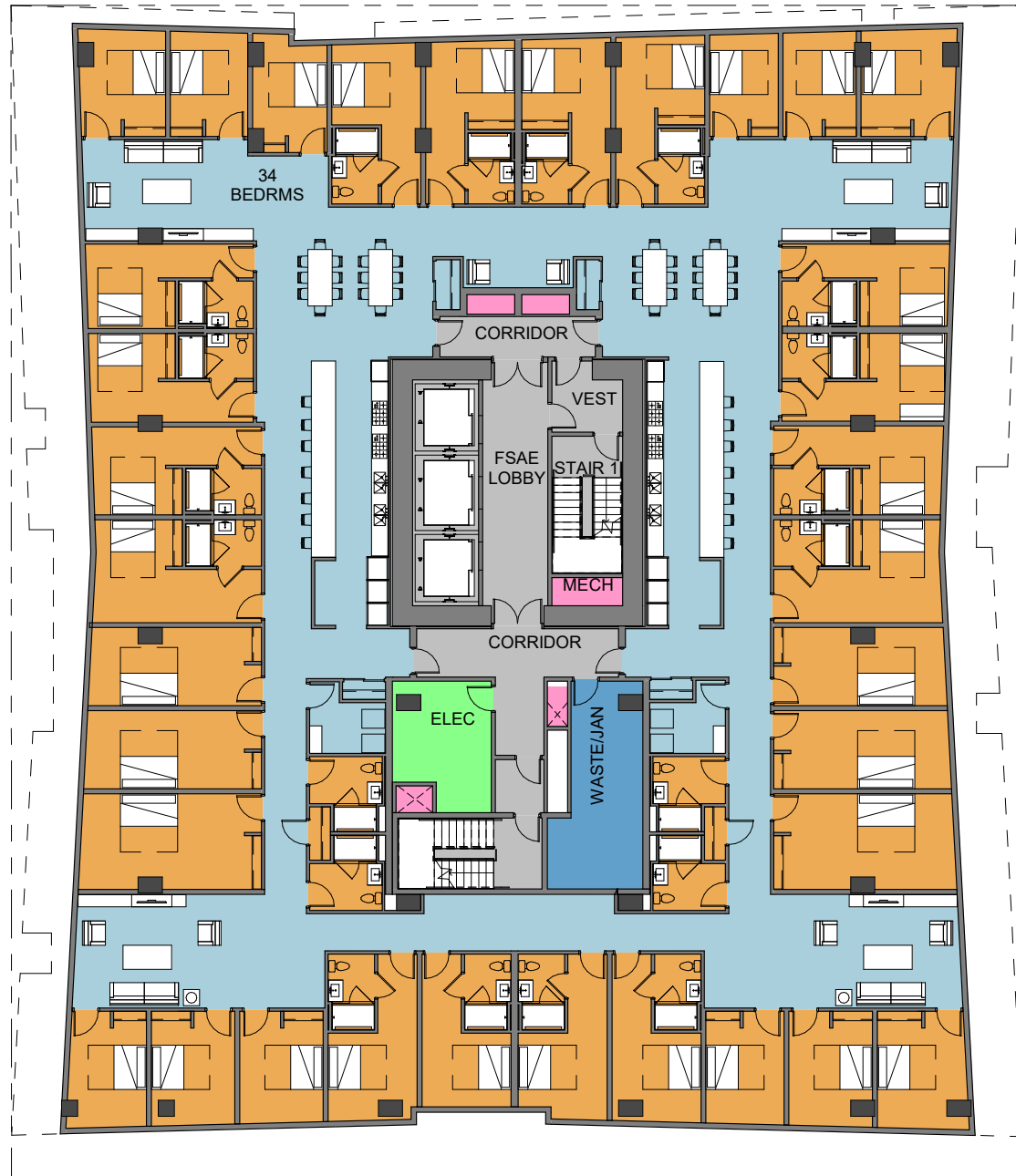
Source: C2K Architecture, 2019

**Figure 5: Option 1 Typical Residential Floor Plan**  
Garden Gate Tower



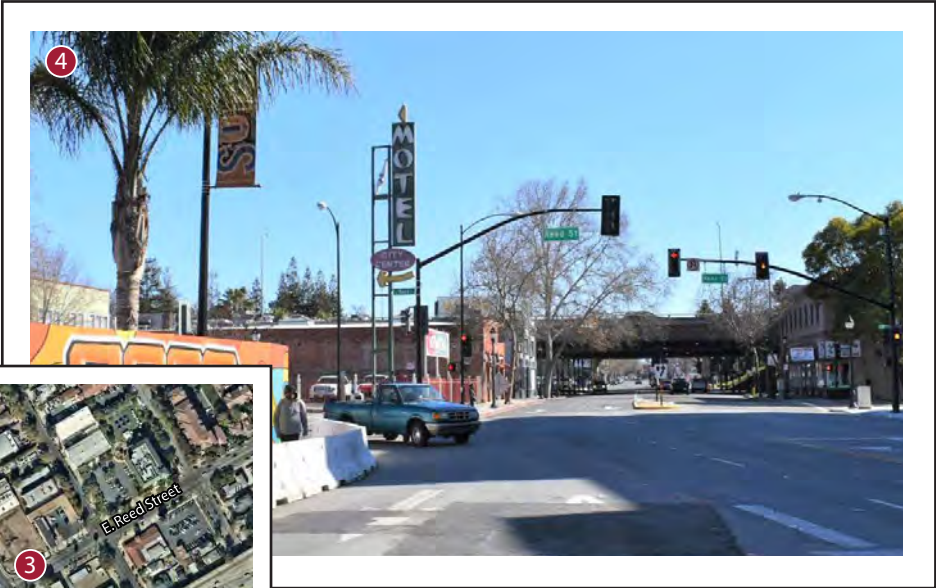
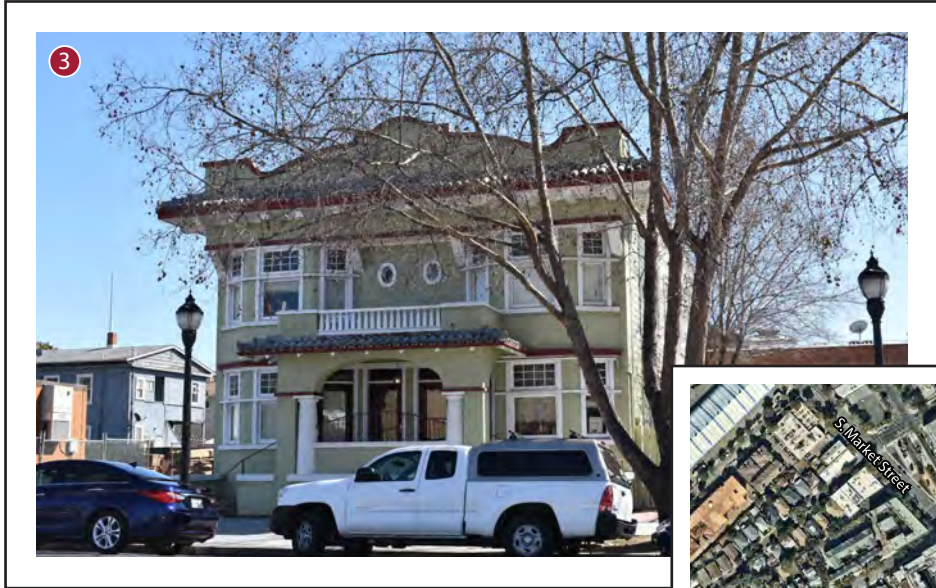
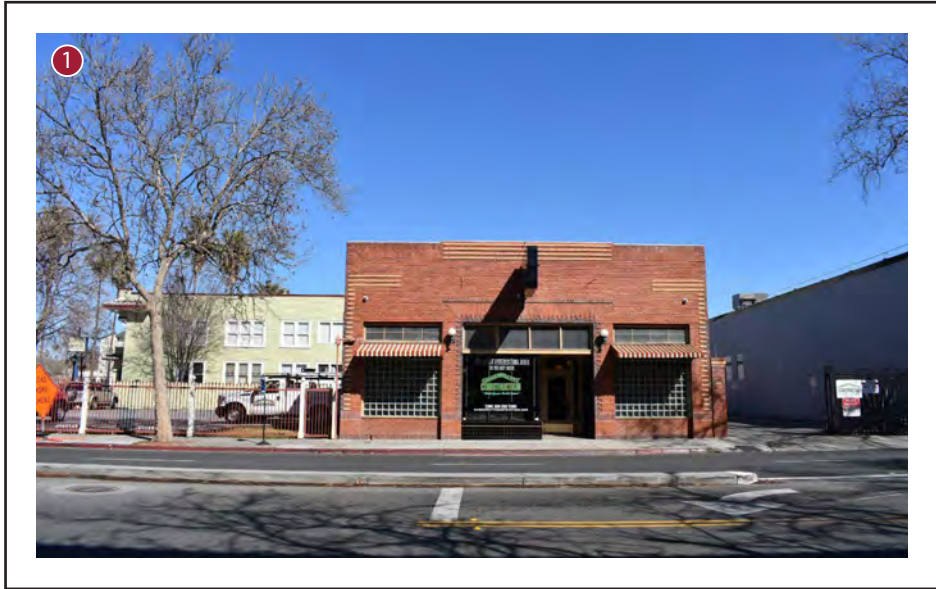
Source: C2K Architecture, 2019

**Figure 6: Option 2 Ground Floor Site Plan**  
Garden Gate Tower



Source: C2K Architecture, 2019

**Figure 7: Option 2 Typical Residential Floor Plan**  
Garden Gate Tower



Source: Kimley-Horn and Associates, 2018

**Figure 8: Site Photos 1-4**  
Garden Gate Tower

## **SECTION 4.0 ENVIRONMENTAL IMPACT ANALYSIS**

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The City is the Lead Agency under CEQA and is responsible for reviewing and approving this Initial Study. As part of the proposed project's implementation, the City will consider the following approvals:

- Special Use Permit
- Site Development Permit
- Tentative Map
- Public Works Clearance(s): Grading Permit
- Building Clearance(s): Demolition Permit, Building Permit, and Occupancy Permits

Additional permits may be required upon review of construction documents. Other permits required for the project may include the issuance of encroachment permits for new driveways, sidewalks, and utilities, walls, fences, security and parking area lighting; building permits; and permits for new utility connections. These additional permits are considered ministerial in nature, and thus issuance of these permits would not trigger the need to further comply with CEQA. Development of the project will not require the issuance of any discretionary permits from any other federal, State, or local agency.

## SECTION 5.0 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

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The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Aesthetics        | <input type="checkbox"/> Agricultural and Forestry Resources           | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources         | <input checked="" type="checkbox"/> Cultural/Tribal Cultural Resources | <input type="checkbox"/> Geology/Soils                      |
| <input type="checkbox"/> Greenhouse Gas Emissions     | <input type="checkbox"/> Hazards and Hazardous Materials               | <input type="checkbox"/> Hydrology/Water Quality            |
| <input checked="" type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources                             | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population/Housing           | <input type="checkbox"/> Public Services                               | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation               | <input type="checkbox"/> Utilities/Service Systems                     | <input type="checkbox"/> Mandatory Findings of Significance |
|   | <input checked="" type="checkbox"/> Energy Conservation                | <input type="checkbox"/> Wildfire                           |

The analysis in this Initial Study identified potentially significant impacts to environmental resources.



## SECTION 6.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

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In accordance with CEQA Section 21093(b), this Initial Study tiers from the City of San José’s Downtown Strategy 2040 FEIR (approved December 2018). The Downtown Strategy 2040 FEIR evaluated up to 14.2 million square feet of office, 1.4 million square feet of retail space, 14,360 residential units, and 3,600 hotel guest rooms within Downtown San José. The General Plan EIR also evaluated additional dwelling units in the Central/Downtown planning area (refer to *Section 1.0 Introduction and Purpose*).

The amount of residential and commercial development proposed for the site was included and analyzed in the certified Downtown Strategy 2040 FEIR, at a program level. This Initial Study evaluates the project-specific environmental impacts that were not addressed in the previously certified Downtown Strategy 2040 FEIR. Because the proposed project would result in new significant impacts and would require revisions to the previously prepared Downtown Strategy 2040 FEIR, a supplemental EIR will be prepared to address those subject areas determined to have a greater impact than previously identified.

This section, *Section 6.0 Environmental Setting, Checklist, and Discussion of Impacts*, describes any changes that have occurred in existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project or the changed conditions. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the “Proposed Project” with those of the “Approved Project” (i.e., development approved in the Downtown Strategy 2040 FEIR) and to identify whether the proposed project would likely result in new significant environmental impacts not previously evaluated in the Downtown Strategy 2040 FEIR. The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified following *Section 8.0*.

Mitigation measures are identified for significant project impacts, as feasible. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). This analysis assumes applicable mitigation measures identified in the previous program EIRs will be implemented by the project, as feasible.

### **Important Note to the Reader:**

The California Supreme Court in a December 2015 opinion [*California Building Industry Association (CBIA) versus Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City currently has policies that address existing conditions (e.g., noise) affecting a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss issues that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

## 6.1 AESTHETICS

Issues	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 on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a State-designated scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.1.1 Existing Setting

The 0.42-acre project site is a surface parking lot, single-story brick building used as office with a parking lot to the south side and a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot. Existing views of the project site are shown in Figure 8: Site Photos 1-4.

### 6.1.2 Conclusion

As proposed, both Option 1 and Option 2 would demolish existing buildings on the project site and construct a high density residential structure. Under both options, the proposed building would be 27 stories in height. The Downtown Strategy 2040 FEIR does not identify the project site as being within a designated scenic area. It does, however, identify urban design concepts that are applicable to the proposed project. Specifically, the Downtown Strategy 2040 FEIR identifies the need to incorporate a pedestrian orientation in new development (including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops) to ensure walkability and integration with the existing downtown. In addition, the Downtown Strategy 2040 FEIR identifies the need to make streetscape improvements (such as landscaping, shade trees, lighting, public art, street furniture, etc.) to enhance and increase pedestrian and transit use. Lastly, it notes that every effort should be made to incorporate existing historic landmark structures into future development plans for the downtown area sites and the surrounding area. These design concepts are intended to enhance the overall visual character of the downtown area. Consistency of the project with the City’s Envision 2040 General Plan and other major development studies is evaluated in the SEIR for this project. No further analysis is provided in this Initial Study.

## 6.2 AGRICULTURAL AND FORESTRY RESOURCES

Issues	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.2.1 Existing Setting

The Phase I Environmental Site Assessment (ESA) (Appendix G-1) prepared for the project found no documentation indicating that the project site was ever used for agricultural purposes. Based on the 1884 Sanborn map, the site was occupied by a single-story storefront with cart storage house, smaller out-building, and stables. Since the late 1800s, the site included commercial storefronts, printing shop, Fire Department Engine Co. No. 3, and residential buildings. The project area is identified as Urban and Built-Up land on the State of California Important Farmland Map.<sup>1</sup>

<sup>1</sup> State of California Department of Conservation website, California Important Farmland Finder. Available at <https://maps.conservation.ca.gov/dlrp/ciff/>. Accessed October 16, 2017.

## 6.2.2 Applicable Plans, Policies and Regulations

### *Williamson Act*

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private land owners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, land owners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

### *Farmland Mapping and Monitoring Program*

The California Natural Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

### *Forest Land and Timberland*

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

## 6.2.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on agricultural resources do not substantially differ between the two scenarios.

- 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? **Same Impact as Approved Project - No Impact.***

The project site and surrounding areas are not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on the State of California Important Farmland Map<sup>2</sup>, and therefore would not result in a conversion of documented agricultural lands to non-agricultural use. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no additional mitigation is required.

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<sup>2</sup> State of California Department of Conservation website, California Important Farmland Finder. Available at <https://maps.conservation.ca.gov/dlrp/ciff/>. Accessed October 16, 2017.

- b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?* **Same Impact as Approved Project – No Impact.**

The project site is not currently zoned for agricultural use and is not under a Williamson Act contract. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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))?* **Same Impact as Approved Project – No Impact.**

The project site is not currently zoned for forest land, timberland, or timberland zoned for production. Therefore, improvements planned as part of the project would not conflict with existing zoning or cause rezoning of any such land. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- d) *Result in the loss of forest land or conversion of forest land to non-forest use?* **Same Impact as Approved Project – No Impact.**

The project site does not contain forest land. Therefore, no impact would occur in regard to changing forest land to a non-forest use. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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?* **Same Impact as Approved Project – No Impact.**

No designated agricultural or forest land is located within the project site. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

#### **6.2.4 Conclusion**

Option 1 and Option 2 do not include areas designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance or conflict with agricultural use or a Williamson Act contract. Under both options, the project site would be located in the same proposed parcel. The proposed parcel is currently zoned as DC *Downtown Primary Commercial* and would not conflict with forest land. Therefore, no impacts to agricultural and forestry resources would occur and no mitigation is required.

## 6.3 AIR QUALITY

Issues	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”
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

An Air Quality/Greenhouse Gas Assessment and a Health Risk Assessment were prepared by Michael Baker International (January 2018) to evaluate air quality impacts and potential health effects to sensitive receptors at nearby residences associated with the project. An additional Air Quality/ Greenhouse Gas Assessment was prepared for Option 2 by Kimley-Horn (June 2019). The reports are provided as Appendix C-1 and C-2, respectively.

### 6.3.1 Existing Setting

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The project area’s proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. This portion of the Santa Clara Valley is bounded to the north by the San Francisco Bay and the Santa Cruz Mountains to the southwest and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley’s northwest-southwest axis.

Pollutants in the air can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

### 6.3.2 Ambient Air Quality Standards

The project is located within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area. The federal Clean Air Act and the California Clean Air Act mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency (US EPA) and the California Air Resources Board (CARB) have established ambient air quality standards for specific “criteria” pollutants, designed to protect public health and welfare. Primary criteria pollutants include

carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub>), sulfur dioxide (SO<sub>2</sub>), and lead (Pb). Secondary criteria pollutants include ozone (O<sub>3</sub>), and fine particulate matter.

CARB and the U.S. Environmental Protection Agency (EPA) establish ambient air quality standards for major pollutants at thresholds intended to protect public health. The standards for some pollutants are based on other values such as protection of crops or avoidance of nuisance conditions. Table 1: State and National Ambient Air Quality Standards and Attainment Status for the San Francisco Bay Area Basin summarizes the State California Ambient Air Quality Standards (CAAQS) and the Federal National Ambient Air Quality Standards (NAAQS).

**Table 1: State and National Ambient Air Quality Standards and Attainment Status for the San Francisco Bay Area Basin**

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Ozone (O <sub>3</sub> )	8 Hours	0.070 ppm (137 µg/m <sup>3</sup> )	No information available	0.070 ppm	N
	1 Hour	0.09 ppm (180 µg/m <sup>3</sup> )	N	No standard	Not applicable
Carbon Monoxide (CO)	8 Hours	9.0 ppm (10 mg/m <sup>3</sup> )	A	9 ppm (10 mg/m <sup>3</sup> )	U/A
	1 Hour	20 ppm (23 mg/m <sup>3</sup> )	A	35 ppm (40 mg/m <sup>3</sup> )	U/A
Nitrogen Dioxide (NO <sub>2</sub> )	1 Hour	0.18 ppm (339 µg/m <sup>3</sup> )	A	No standard	Not applicable
	Annual Arithmetic Mean	0.030 ppm (57 µg/m <sup>3</sup> )	No information available	0.053 ppm (100 µg/m <sup>3</sup> )	U/A
Sulfur Dioxide (SO <sub>2</sub> )	24 Hours	0.04 ppm (105 µg/m <sup>3</sup> )	A	0.14 ppm (365 µg/m <sup>3</sup> )	A
	1 Hour	0.25 ppm (665 µg/m <sup>3</sup> )	A	No standard	Not applicable
	Annual Arithmetic Mean	No standard	Not applicable	0.030 ppm (80 µg/m <sup>3</sup> )	A
Particulate Matter (PM <sub>10</sub> )	Annual Arithmetic Mean	20 µg/m <sup>3</sup>	N	No standard	Not applicable
	24 Hours	50 µg/m <sup>3</sup>	N	150 µg/m <sup>3</sup>	U
Particulate Matter – Fine (PM <sub>2.5</sub> )	Annual Arithmetic Mean	12 µg/m <sup>3</sup>	N	15 µg/m <sup>3</sup>	N
	24 Hours	No standard	Not applicable	35 µg/m <sup>3</sup>	N
Sulfates	24 Hours	25 µg/m <sup>3</sup>	U	No standard	Not applicable
Lead	30-Day Average	1.5 µg/m <sup>3</sup>	A	No standard	Not applicable
	Calendar Quarter	No standard	Not applicable	1.5 µg/m <sup>3</sup>	A
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m <sup>3</sup> )	U	No standard	Not applicable
Vinyl Chloride (chloroethene)	24 Hours	0.01 ppm (26 µg/m <sup>3</sup> )	No information available	No standard	Not applicable
Visibility-Reducing Particles	8 Hours (10:00 to 18:00 PST)	Extinction coefficient of 0.23 per kilometer	U	No standard	Not applicable

Source: BAAQMD 2017 (<http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status>).  
A=attainment; N=nonattainment; U=unclassified  
mg/m<sup>3</sup>=milligrams per cubic meter; ppm=parts per million; ppb=parts per billion; µg/m<sup>3</sup>=micrograms per cubic meter



CARB designates all areas within the State as either attainment (having air quality better than the CAAQS) or nonattainment (having a pollution concentration that exceeds the CAAQS more than once in three years). The San Francisco Bay Area Air Basin is currently designated as a nonattainment area for state and national standards for ozone and PM<sub>2.5</sub>, and state standards for PM<sub>10</sub>.

### **6.3.3 Ambient Air Monitoring**

The closest air monitoring station to the project site is the San José Monitoring Station located at 158 East Jackson Street, San José, California. Local air quality data from 2014 to 2016 is provided in the Air Quality/Greenhouse Gas Assessment (Appendix C-1).

#### ***National Ambient Air Quality Standards***

As required by the Clean Air Act, the NAAQS have been established for the six primary criteria pollutants: carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur oxides, and lead. Pursuant to the California Clean Air Act, the state has also established the CAAQS, which are generally more stringent than the corresponding federal standards. The BAAQMD is primarily responsible for assuring that the national and state ambient air quality standards are attained and maintained in the San Francisco Bay Air Basin.

Santa Clara County, and the Bay Area as a whole, is classified as a nonattainment area for ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> under federal law. The County is either in attainment or unclassified for other pollutants.

- Ozone, often called photochemical smog, is classified as a secondary air pollutant, meaning it is not emitted directly into the air. It is created by the action of sunlight on ozone precursors, primarily reactive hydrocarbons and NO<sub>x</sub>. The major sources of ozone precursors include combustion sources such as factories and automobiles and evaporation of solvents and fuels. The main public health concerns associated with ground level ozone pollution are eye irritation and impairment of respiratory functions.
- PM<sub>10</sub> consists of solid and liquid particles of dust, soot, aerosols, and other matter which are less than 10 microns in diameter. Major sources of PM<sub>10</sub> are combustion (including automobile engines – particularly diesel, fires, and factories) and dust from paved and unpaved roads. Public health concerns associated with PM<sub>10</sub> include aggravation of chronic disease and heart/lung disease symptoms.
- PM<sub>2.5</sub>, also known as Fine Particulate Matter, consists of the same type of matter as PM<sub>10</sub>, but is less than 2.5 microns in diameter. The major source of PM<sub>2.5</sub> is combustion, but the particles can also be formed by chemical changes occurring in the air. PM<sub>2.5</sub> can cause respiratory problems and is of particular concern because the particles can penetrate deeper into the lungs.

The region is required to adopt clean air plans on a triennial basis that show progress towards meeting the state ozone standard. The latest regional plan was adopted in April 2017. This plan includes a comprehensive strategy to reduce emissions from stationary, area, and mobile sources through the expeditious implementation of all feasible measures, including transportation control measures (TCMs) and programs such as “Spare the Air.”<sup>3</sup>

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<sup>3</sup> <http://www.sparetheair.org/> accessed October 28, 2018

#### **6.3.4 Applicable Plans, Policies and Regulations**

##### ***Clean Air Act***

The Clean Air Act (CAA) of 1970 and the CAA Amendments of 1971 required the EPA to establish NAAQS, with states retaining the option to adopt more stringent standards or to include other specific pollutants. On April 2, 2007, the Supreme Court found that carbon dioxide is an air pollutant covered by the CAA; however, no NAAQS have been established for carbon dioxide.

These standards are the levels of air quality considered safe, with an adequate margin of safety, to protect the public health and welfare. They are designed to protect those “sensitive receptors” most susceptible to further respiratory distress such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed.

The EPA has classified air basins (or portions thereof) as being in attainment, nonattainment, or unclassified for each criteria air pollutant, based on whether or not the NAAQS have been achieved. If an area is designated unclassified, it is because inadequate air quality data were available as a basis for a nonattainment or attainment designation.

##### ***National Emissions Standards for Hazardous Air Pollutants Program***

Under federal law, 188 substances are listed as hazardous air pollutants (HAPs). Major sources of specific HAPs are subject to the requirements of the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program. The EPA is establishing regulatory schemes for specific source categories and requires implementation of Maximum Achievable Control Technologies (MACTs) for major sources of HAPs in each source category. State law has established the framework for California’s TAC identification and control program, which is generally more stringent than the federal program and is aimed at HAPs that are a problem in California. The state has formally identified 244 substances as TACs and is adopting appropriate control measures for each. Once adopted at the state level, each air district will be required to adopt a measure that is equally or more stringent.

##### ***California Air Toxics “Hot Spots” Information and Assessment Act (AB 2588)***

The California Air Toxics “Hot Spots” Information and Assessment Act (AB 2588) is a state-wide program enacted in 1987. AB 2588 requires facilities that exceed recommended Office of Environmental Health Hazard Assessment (OEHHA) levels to reduce risks to acceptable levels.

Typically, land development projects generate diesel emissions from construction vehicles during the construction phase, as well as some diesel emissions from small trucks during the operational phase. Diesel exhaust is mainly composed of particulate matter and gases, which contain potential cancer-causing substances. Emissions from diesel engines currently include over 40 substances that are listed by EPA as hazardous air pollutants and by CARB as toxic air contaminants. On August 27, 1998, CARB identified particulate matter in diesel exhaust as a TAC, based on data linking diesel particulate emissions to increased risks of lung cancer and respiratory disease.

In September 2000, CARB adopted a comprehensive diesel risk reduction plan to reduce emissions from both new and existing diesel-fueled engines and vehicles. The goal of the plan is to reduce diesel PM emissions and the associated health risk by 75 percent in 2010 and by 85 percent by 2020. As part of this

plan, CARB identified Airborne Toxic Control Measures (ATCM) for mobile and stationary emissions sources. Each ATCM is codified in the California Code of Regulations, including the ATCM to limit diesel-fueled commercial motor vehicle idling, which puts limits on idling time for large diesel engines (13 CCR Chapter 10 Section 2485).

### ***California Clean Air Act***

The California Clean Air Act (CCAA) allows states to adopt ambient air quality standards and other regulations provided that they are at least as stringent as federal standards. CARB, a part of the California Environmental Protection Agency, is responsible for the coordination and administration of both federal and state air pollution control programs within California, including setting the California ambient air quality standards. CARB also conducts research, compiles emission inventories, develops suggested control measures, and provides oversight of local programs. CARB establishes emissions standards for motor vehicles sold in California, consumer products (such as hairspray, aerosol paints, and barbecue lighter fluid), and various types of commercial equipment. It also sets fuel specifications to further reduce vehicular emissions. CARB also has primary responsibility for the development of California's State Implementation Plan (SIP), for which it works closely with the federal government and the local air districts.

In addition to standards set for the six criteria pollutants, the State has set standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility reducing particles. These standards are designed to protect the health and welfare of the populace with a reasonable margin of safety. Further, in addition to primary and secondary ambient air quality standards, the State has established a set of episode criteria for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and particulate matter. These criteria refer to episode levels representing periods of short-term exposure to air pollutants that actually threaten public health.

### ***California State Implementation Plan***

The federal Clean Air Act (and its subsequent amendments) requires each state to prepare an air quality control plan referred to as the SIP. The SIP is a living document that is periodically modified to reflect the latest emissions inventories, plans, and rules and regulations of air basins as reported by the agencies with jurisdiction over them. The CAA Amendments dictate that states containing areas violating the national ambient air quality standards revise their SIPs to include extra control measures to reduce air pollution. The SIP includes strategies and control measures to attain the NAAQS by deadlines established by the Clean Air Act. The EPA has the responsibility to review all State Implementation Plans to determine if they conform to the requirements of the CAA.

State law makes CARB the lead agency for all purposes related to the SIP. Local air districts and other agencies prepare SIP elements and submit them to CARB for review and approval. CARB then forwards SIP revisions to the EPA for approval and publication in the Federal Register. As discussed below, the BAAQMD Final 2017 Clean Air Plan (Clean Air Plan) is the SIP for the Basin.

### ***Senate Bill 1889, Accidental Release Prevention Law/California Accidental Release Prevention Program***

Senate Bill (SB) 1889 required California to implement a new federally mandated program governing the accidental airborne release of chemicals promulgated under Section 112 of the Clean Air Act. Effective January 1, 1997, the California Accidental Release Prevention Law (CalARP) replaced the previous California Risk Management and Prevention Program and incorporated the mandatory federal requirements. CalARP addresses facilities that contain specified hazardous materials, known as regulated substances, which if involved in an accidental release, could result in adverse offsite consequences. CalARP defines

regulated substances as chemicals that pose a threat to public health and safety or the environment because they are highly toxic, flammable, or explosive.

### *City of San José General Plan*

The City's General Plan includes the following air quality policies applicable to the project:

- Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
- Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
- Policy MS-10.5: In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
- Policy MS-10.6: Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.
- Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
- Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
- Policy MS-11.4: Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
- Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
- Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

### ***Sensitive Receptors***

BAAQMD defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and the chronically ill are likely to be located. These facilities include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, and people with illnesses. Sensitive receptors closest to the project site include residences, schools, places of worship, and parks. The closest sensitive receptors to the project site are residences that are approximately 25 feet to the east of the project site and approximately 80 feet west of the project site across South Market Street.

### ***Construction TAC and PM<sub>2.5</sub> Health Risks***

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. As discussed above, the closest sensitive receptors to the project site are residences that are approximately 25 feet to the east of the project site and approximately 80 feet west of the project site across South Market Street.

Under the BAAQMD Air Quality Guidelines (as shown in Table 2 of Appendix C-1), an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the Maximally Exposed Individual or MEI will result in a significant impact. The 10 in 1 million threshold is based on the latest scientific data, and is designed to protect the most sensitive individuals in the population as each chemical's exposure level includes large margins of safety. In addition to this carcinogen threshold, OEHHA recommends that the non-carcinogenic hazards for TACs at ground level should not exceed a chronic hazard index of greater than one.

Vehicle exhaust emissions of diesel particulates from traffic on I-280 are below the PM<sub>10</sub> and PM<sub>2.5</sub> range. Diesel particulate matter (DPM) is the only pollutant needed for the cancer risk analysis since the cancer slope factor established by OEHHA for the DPM cancer risk assessment includes consideration of the individual toxic species that could be adsorbed onto DPM particles.

### **6.3.5 Discussion**

The following impact analysis includes a discussion of Option 1 and Option 2.

a) *Conflict with or obstruct implementation of the applicable air quality plan?* **Same Impact as Approved Project – Less Than Significant Impact.**

The most recently adopted plan, the 2017 Clean Air Plan, outlines how the San Francisco Area will attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions.

The Clean Air Plan assumptions for projected air emissions and pollutants in San José are based on the *Envision 2040 General Plan Land Use and Transportation Designation Map* which designates the project's land use as "Downtown". Thus, the project would not significantly affect regional vehicle miles traveled pursuant to the CEQA Guidelines (Section 15206). The project would also not have the potential to exceed the level of population or housing in regional planning efforts.

### Short-Term Construction

Short-term air quality impacts are predicted to occur during demolition, grading, and construction operations associated with implementation of the project. Temporary air emissions would result from the following activities:

- Particulate (fugitive dust) emissions from grading and building construction; and
- Exhaust emissions from the construction equipment and the motor vehicles of the construction crew.

For the construction analysis, it is assumed Option 2 would have the same construction impacts as Option 1. Both options would have similar building footprint and designs, with the exception of some minor differences in the ground floor layout. The phasing, earthwork volumes, and equipment used would be similar. The project involves construction activities associated with demolition of the paved area, site preparation, grading, construction, and architectural coating applications. Site grading would require approximately 31,500 cubic yards of soil export.

The project would be constructed over approximately 26 months. For purposes of this analysis, construction is assumed to begin in an earlier year as a conservative approach. Assuming an earlier starting year is conservative because a later construction start date would result in lower emissions due to equipment fleet turnover and emissions control regulations. Emissions for each construction phase have been quantified based upon the phase durations and equipment types. The analysis of daily construction emissions has been prepared utilizing the California Emissions Estimator Model version (CalEEMod). *Table 2: Short-Term Construction Emissions – Options 1 and 2*, presents the anticipated daily short-term construction emissions.

**Table 2: Short-Term Construction Emissions – Options 1 and 2**

Emissions Source	Pollutant (pounds/day) <sup>1,2,3</sup>					
	ROG	NO <sub>x</sub>	PM <sub>10</sub> (exhaust)	PM <sub>2.5</sub> (exhaust)	PM <sub>10</sub> (fugitive)	PM <sub>2.5</sub> (fugitive)
<b>Year 1</b>						
Unmitigated Emissions	3.80	45.53	1.94	1.81	7.63	3.73
Mitigated Emissions	3.80	45.53	1.94	1.81	3.73	1.62
<i>BAAQMD Thresholds</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>	<i>N/A</i>	<i>N/A</i>
<i>Is Threshold Exceeded After Mitigation?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>N/A</i>	<i>N/A</i>
<b>Year 2</b>						
Unmitigated Emissions	4.05	42.59	1.70	1.59	7.63	3.73
Mitigated Emissions	4.05	42.59	1.70	1.59	3.73	1.62
<i>BAAQMD Thresholds</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>	<i>N/A</i>	<i>N/A</i>
<i>Is Threshold Exceeded After Mitigation?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>N/A</i>	<i>N/A</i>
<b>Year 3</b>						
Unmitigated Emissions	45.87	31.71	1.46	1.38	2.77	0.74
Mitigated Emissions	45.87	31.71	1.46	1.38	2.63	0.71
<i>BAAQMD Thresholds</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>	<i>N/A</i>	<i>N/A</i>
<i>Is Threshold Exceeded After Mitigation?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>N/A</i>	<i>N/A</i>
ROG = reactive organic gases; NO <sub>x</sub> = nitrogen oxides; PM <sub>10</sub> = particulate matter 10 microns in diameter or less; PM <sub>2.5</sub> = particulate matter 2.5						

Emissions Source	Pollutant (pounds/day) <sup>1,2,3</sup>				
	ROG	NO <sub>x</sub>	PM <sub>10</sub> (exhaust)	PM <sub>2.5</sub> (exhaust)	PM <sub>10</sub> (fugitive)
microns in diameter or less; N/A = not applicable					
Notes:					
<ol style="list-style-type: none"> <li>1. Emissions were calculated using CalEEMod, version 2016.3.2.</li> <li>2. The reduction/credits for construction emission mitigations are based on mitigation included in CalEEMod and as typically required by the BAAQMD (Basic Control Measures and Regulation 6: Particulate Matter and Visible Emissions). The mitigation includes the following: replace ground cover on disturbed areas quickly, water exposed surfaces twice daily, and proper loading/unloading of mobile and other construction equipment.</li> <li>3. The BAAQMD construction thresholds only apply to exhaust. Fugitive emissions are considered less than significant with implementation of the BAAQMD Basic Construction Mitigation Measures (included as Standard Permit Conditions).</li> </ol>					
Refer to <a href="#">Appendix A of Appendix C-1, Air Quality/Greenhouse Gas Emissions Data</a> , for assumptions used in this analysis.					
Source: Michael Baker International, 2018 and Kimley-Horn, 2019					

Although the project would result in construction emissions below BAAQMD thresholds, Basic Construction Mitigation Measures would be implemented during construction including dust control procedures (watering, covering/stabilizing disturbed areas, limiting on-site vehicle speeds, etc.) to further reduce emissions as outlined in the Standard Permit Conditions below. These Standard Permit Conditions correlate with mitigation measures as outlined in the Downtown Strategy 2040 FEIR, and include updates to reflect the latest practices and recommendations from the BAAQMD.

**Standard Permit Conditions**

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours.

The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

The project would be required to implement the measures listed above as conditions of approval. These measures will be placed on project plan documents prior to issuance of any grading permits for the project. The project, therefore, would not result in a significant air quality impact due to construction dust emissions.

Emitted pollutants would include ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. ROG emissions would be the greatest during the paving phase of construction. The largest amount of NO<sub>x</sub> emissions would occur during the construction phase. PM<sub>10</sub> and PM<sub>2.5</sub> emissions would occur from fugitive dust and from construction equipment exhaust. The majority of PM<sub>10</sub> and PM<sub>2.5</sub> emissions would be generated by fugitive dust from earthwork activities. Exhaust emissions from construction activities include emissions associated with the transport of machinery and supplies to and from the project site, emissions produced on-site as the equipment is used, and emissions from trucks transporting materials to and from the site.

Unmitigated emissions would not exceed significance thresholds; therefore, a less than significant impact would occur with regard to construction emissions. It should be noted that although the project would result in construction emissions below BAAQMD thresholds.

### ***Asbestos***

Asbestos is a term used for several types of naturally occurring fibrous minerals that are a human health hazard when airborne. Asbestos is classified as a known human carcinogen by State, federal, and international agencies and was identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1986. Asbestos can be released from serpentinite and ultramafic rocks when the rock is broken or crushed. At the point of release, the asbestos fibers may become airborne, causing air quality and human health hazards. These rocks have been commonly used for unpaved gravel roads, landscaping, fill projects, and other improvement projects in some localities. Asbestos may be released to the atmosphere due to vehicular traffic on unpaved roads, during grading for development projects, and at quarry operations. All of these activities may have the effect of releasing potentially harmful asbestos into the air.

According to the Department of Conservation Division of Mines and Geology, *Areas Of Definite And Likely Natural Asbestos Occurrence* (2003), the project site is not located within an area where naturally occurring asbestos is likely to be present. To reduce impacts from naturally occurring asbestos to a less than significant level, the BAAQMD requires compliance with the relevant CARB Airborne Toxic Control Measures (ATCMs) (ATCM 93105 and 93106). Compliance with ATCM 93105 and 93106 would ensure that naturally occurring asbestos impacts would be less than significant. Demolition of existing buildings would be required to comply with all applicable State and local regulations for the abatement, handling and disposal of asbestos, including but not limited to BAAQMD Regulation 11 Hazardous Pollutants, Rule 2 Asbestos Demolition, Renovation and Manufacturing.

### ***Construction Odors***

Potential odors could arise from the diesel construction equipment used on-site, as well as from architectural coatings and asphalt off-gassing. Odors generated from the referenced sources are common in the man-made environment and are not known to be substantially offensive to adjacent receptors. Additionally, odors generated during construction activities would be temporary. Therefore, construction odors are not considered to be a significant impact.



### ***Daily Construction Emissions Conclusion***

In accordance with the BAAQMD Guidelines, CalEEMod was used to model construction emissions for ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. Construction would occur over an approximate 26-month period, with the greatest amount of fugitive dust emissions being generated during the grading and building construction stages of construction. Additionally, the greatest amount of ROG emissions would typically occur during the final stages of development due to the application of architectural coatings. As depicted in Table 2, construction emissions would not exceed BAAQMD thresholds. Thus, construction related air emissions would be less than significant. However, the Standard Permit Conditions above would be implemented during construction to further reduce emissions and comply with BAAQMD's guidelines.

### ***Long-Term (Operational) Emissions***

This air quality impact analysis considers operational impacts associated with Option 1 and 2. Air quality impacts were assessed according to CARB and BAAQMD recommended methodologies. Where criteria air pollutant quantification was required, emissions were modeled using the California Emissions Estimator Model (CalEEMod). CalEEMod is a statewide land use emissions computer model designed to quantify potential criteria pollutant emissions associated with both construction and operations from a variety of land use projects. As discussed in the Project Description, Option 1 includes 290 dwelling units, approximately 5,000 sf of ground-floor retail, and 232 parking spaces while Option 2 includes 850 bedrooms (converted to 607 dwelling units), approximately 6,000 sf, and 124 parking spaces.

### ***Mobile Source Emissions***

Mobile sources are emissions from motor vehicles, including tailpipe and evaporative emissions. Project-generated vehicle emissions have been estimated using CalEEMod. Trip generation rates associated with the project were based on the traffic data within Traffic Operations Analysis, as provided in Appendix I. Option 1 would generate approximately 929 daily trips and Option 2 would generate a net of 1,412 daily trips. As shown in Table 3: Long-Term Operational Air Emissions - Option 1, the net increase in emissions generated by vehicle traffic associated with the project would not exceed established BAAQMD regional thresholds.

**Table 3: Long-Term Operational Air Emissions - Option 1**

Emissions Source	Pollutant (pounds/day) <sup>1</sup>			
	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
<b>Long-Term Emissions</b>				
Area Source Emissions	14.07	2.07	0.28	0.28
Energy Emissions	0.06	0.55	0.04	0.04
Mobile Emissions	2.99	9.85	6.30	1.73
<i>Total Project Mitigated Emissions<sup>2</sup></i>	17.12	12.48	6.61	2.05
<i>BAAQMD Threshold</i>	54	54	82	54
<b><i>Is Threshold Exceeded? (Significant Impact?)</i></b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>

Emissions Source	Pollutant (pounds/day) <sup>1</sup>			
	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Notes:				
<ol style="list-style-type: none"> <li>Based on CalEEMod modeling results, worst-case seasonal emissions for area, energy, and mobile emissions have been modeled. Refer to <u>Appendix A, Air Quality/Greenhouse Gas Emissions Data</u>, of Appendix C-1 Air Quality and Greenhouse Gas Analysis for assumptions used in this analysis.</li> <li>Total project mitigated emissions include use of natural gas hearths only per BAAQMD Regulation 6, Rule 3 (Wood-Burning Devices) and a 20 percent exceedance of Title 24 energy efficiency standards.</li> </ol>				
Source: Michael Baker International, 2018				

Table 4: Long-Term Operational Air Emissions Option 2, the net increase in emissions generated by vehicle traffic associated with the project would not exceed established BAAQMD regional thresholds.

**Table 4: Long-Term Operational Air Emissions - Option 2**

Emissions Source	Pollutant (pounds/day) <sup>1</sup>			
	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
<b>Long-Term Emissions</b>				
Area Source Emissions	17.45	4.34	0.58	0.58
Energy Emissions	0.14	1.16	0.09	0.09
Mobile Emissions	4.30	14.45	9.57	2.63
<i>Total Project Mitigated Emissions<sup>2</sup></i>	<i>21.88</i>	<i>19.95</i>	<i>10.25</i>	<i>3.30</i>
<i>BAAQMD Threshold</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>
<b><i>Is Threshold Exceeded? (Significant Impact?)</i></b>	<b><i>No</i></b>	<b><i>No</i></b>	<b><i>No</i></b>	<b><i>No</i></b>
Notes:				
<ol style="list-style-type: none"> <li>Based on CalEEMod modeling results, worst-case seasonal emissions for area, energy, and mobile emissions have been modeled. Refer to <u>Attachment A, Air Quality/Greenhouse Gas Emissions Data</u>, of Appendix C-2 Air Quality and Greenhouse Gas Analysis for assumptions used in this analysis.</li> <li>Total project mitigated emissions include use of natural gas hearths only per BAAQMD Regulation 6, Rule 3 (Wood-Burning Devices) and a 20 percent exceedance of Title 24 energy efficiency standards.</li> </ol>				
Source: Kimley-Horn, 2019				

### ***Area Source Emissions***

Area source emissions would be generated due to an increased demand for natural gas associated with the development of the proposed project. The primary use of natural gas producing area source emissions by the project would be for consumer products, architectural coating, and landscaping. As shown in Table 3 and 4, area source emissions from the project would not exceed BAAQMD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub>, or PM<sub>2.5</sub>.

### ***Energy Source Emissions***

Energy source emissions would be generated as a result of electricity usage associated with the proposed project. The primary use of electricity by the project would be for ventilation, lighting, appliances, and electronics. As shown in Table 3 and 4, energy source emissions from the project would not exceed BAAQMD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub>, or PM<sub>2.5</sub>.

### 6.3.6 Conclusion

As indicated in Table 3 and 4, mitigated operational emissions from the project (both Option 1 and Option 2) would not exceed BAAQMD's thresholds. In the instance that stationary sources, such as backup generators are installed on site, applicable permits from BAAQMD would need to be obtained for operation. Backup generators would be used only in emergency situations and would not contribute a substantial amount of emissions capable of exceeding BAAQMD thresholds. Therefore, no new or more significant operational air quality impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

#### *Cumulative Short-Term Emissions*

The San Francisco Bay Area Air Basin is designated nonattainment for O<sub>3</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> for state standards and nonattainment for O<sub>3</sub> and PM<sub>2.5</sub> for federal standards. As discussed above, the project's construction-related emissions by themselves would not have the potential to exceed the BAAQMD significance thresholds for criteria pollutants for Option 1 and Option 2 because the construction process and timelines would be similar for both options.

Since these thresholds indicate whether an individual project's emissions have the potential to affect cumulative regional air quality, it can be expected that the project-related construction emissions would not be cumulatively considerable. The BAAQMD recommended Basic Construction Mitigation Measures are recommended for all projects whether or not construction-related emissions exceed the thresholds of significance. These measures are incorporated into the project as Standard Permit Conditions, as outlined in response 6.3.5 (a) above. Compliance with BAAQMD construction-related mitigation requirements are considered to reduce cumulative impacts at a Basin-wide level. Therefore, construction emissions associated with the project would not result in a cumulatively considerable contribution to significant cumulative air quality impacts.

#### *Cumulative Long-Term Impacts*

The BAAQMD has not established separate significance thresholds for cumulative operational emissions. The nature of air emissions is largely a cumulative impact. As a result, no single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. The BAAQMD developed the operational thresholds of significance based on the level above which a project's individual emissions would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. Therefore, a project that exceeds the BAAQMD operational thresholds would also be a cumulatively considerable contribution to a significant cumulative impact. Separate modeling scenario was prepared for both Option 1 and Option 2. As discussed in Impact 6.3.5(a) above, the proposed project's operational emissions would not exceed BAAQMD thresholds for Option 1 and Option 2.

Therefore, no new or more significant operational emissions impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- c) *Expose sensitive receptors to substantial pollutant concentrations?* **Same Impact as Approved Project – Significant and Unavoidable Impact.**

Sensitive receptors are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. CARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. The closest sensitive receptors are the existing residential uses approximately 25 feet to the east of the project site.

### ***Construction TAC and PM<sub>2.5</sub> Health Risks***

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC, poses a health risk to nearby sensitive receptors when operating at the project site. The closest sensitive receptors to the project site are the residences located 25 feet to the east on Second Street. The proposed project would include residential uses that would not generate toxic air contaminants.

The BAAQMD CEQA Air Quality Guidelines identifies that an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the Maximally Exposed Individual or MEI will result in a significant impact. The BAAQMD considers exposure to annual PM<sub>2.5</sub> concentrations that exceed 0.3 µg/m<sup>3</sup> from a single source to be significant. Cumulative cancer risks that exceed 100 cases per million and annual PM<sub>2.5</sub> concentrations that exceed 0.8 µg/m<sup>3</sup> from cumulative sources are also significant. The BAAQMD significance threshold for non-cancer hazards is 1.0.

The community health risk assessment prepared for Option 1 of the project included an evaluation of potential health effects to sensitive receptors at the nearby residences from construction emissions of PM<sub>2.5</sub>, and diesel particulate matter (DPM) in accordance with General Plan Policy MS-11.2 (Appendix D). Results of community health risk assessment determined that the maximum concentration of construction PM<sub>2.5</sub> would be 0.12 µg/m<sup>3</sup> for Option 1, which is below the BAAQMD 0.3 µg/m<sup>3</sup> significance threshold. Non-cancer hazards for construction DPM would be well below BAAQMD threshold, with a chronic hazard index computed at 0.02. This hazard index is much lower than the BAAQMD significance threshold of greater than 1.0. Construction residential child cancer risk (worst case) would be 2.25 in one million during construction activities. Therefore, construction risk levels would be less than significant. For the construction analysis, it is assumed Option 2 would have the same construction impacts as Option 1. Both options would have similar building footprint and designs, with the exception of some minor differences in the ground floor layout. The phasing, earthwork volumes, and equipment used would be similar. Thus, construction risk levels for Option 2 would also be less than significant.

### ***Localized Carbon Monoxide Hotspots***

The San Francisco Bay Area Air Basin is designated as attainment for carbon monoxide (CO). No exceedances of the CAAQS or NAAQS for CO have been recorded at nearby monitoring stations since 1991. As a result, the BAAQMD screening criteria notes that CO impacts may be determined to be less than significant if a project is consistent with the applicable congestion management plan (CMP) and would not increase traffic volumes at local intersections to more than 24,000 vehicles per hour for locations in heavily urban areas, where “urban canyons” formed by buildings tend to reduce air circulation. Based on the scope of the project (construction of a 513,333 square-foot mixed-use tower), traffic would increase along surrounding roadways during long-term operational activities. According to the Traffic Operations Analysis & Supplemental Traffic Analysis Memo for the project, Option 1 would generate a net of 929 daily trips and Option 2 would generate a net of 1,412 daily trips (Appendix I). Therefore, the project would not generate a significant number of vehicle trips and effects related to CO concentrations would be less than significant.

### ***Parking Structure Hotspots***

Carbon monoxide concentrations are a function of vehicle idling time, meteorological conditions, and traffic flow. Therefore, parking structures (and particularly subterranean parking structures) tend to be of concern regarding CO hotspots, as they are enclosed spaces with frequent cars operating in cold start mode. Under Option 1 approximately 233 parking spaces would be constructed within the parking garage. Under Option 2, 124 parking spaces would be constructed within the parking garage and no above grade parking is proposed. The project would be required to comply with the ventilation requirements of the 2015 International Mechanical Code (Section 404 [Enclosed Parking Garages]), which requires that mechanical ventilation systems for enclosed parking garages operate automatically by means of carbon monoxide detectors in conjunction with nitrogen dioxide detectors. Mechanical Code Section 404.2 requires a minimum air flow rate of 0.05 cubic feet per second per square foot and the system shall be capable of producing a ventilation airflow rate of 0.75 cubic feet per second per square foot of floor area. Impacts as a result of parking structure CO hotspots would be less than significant.

### ***Operational Carcinogenic Risk***

CARB identified DPM as a TAC in 1998. As the project is proposing a mixed-use residential development adjacent to I-280 (a TAC source), a health risk analysis was performed for Option 1 using the EPA-approved AERMOD model (Appendix D). Based on the AERMOD outputs, the highest expected hourly average diesel PM<sub>10</sub> emission concentrations at the project site resulting from diesel truck traffic on I-280 would be 0.010 µg/m<sup>3</sup>. The highest expected annual average diesel PM<sub>10</sub> emission concentrations at the project site would be 0.001 µg/m<sup>3</sup>. The calculations conservatively assume no cleaner technology with lower emissions in future years. Cancer risk calculations are based on 70-, 30-, and 9-year exposure periods. As shown in Table 5: Health Risk at Project Site, the highest calculated carcinogenic risk as a result of the project is 0.46 per million for 70-year exposure, 0.39 per million for 30-year exposure, and 0.28 per million for 9-year exposure. As shown, impacts related to cancer risk and PM<sub>10</sub> concentrations from diesel truck traffic along I-280 would be less than significant at the project site. The Health Risk Assessment analysis evaluates the worst case exposure for the site and therefore is similar for Option 1 and 2. Both Option 1 and 2 would have a less than significant impact at the project site for operational carcinogenic risk.

**Table 5: Health Risk at Project Site**

<b>Exposure Scenario</b>	<b>Maximum Cancer Risk (Risk per Million)<sup>1,2</sup></b>	<b>Significance Threshold (Risk per Million)</b>	<b>Exceeds Significance Threshold?</b>
70-Year Exposure	0.46	10	No
30-Year Exposure	0.39	10	No
9-Year Exposure	0.28	10	No
Notes:			
1. Refer to <a href="#">Appendix D, Dispersion Modeling Data</a> .			
2. The maximum cancer risk would be experienced along the southeastern tip of the project site.			
Source: Michael Baker International, 2018			

### ***Operational Non-Carcinogenic Hazards***

Non-cancer chronic impacts are calculated by dividing the annual average concentration by the Reference Exposure Level (REL) for that substance. An acute or chronic hazard index of 1.0 is considered individually significant. As indicated in the Health Risk Assessment (Appendix D), the highest maximum chronic and acute hazard index associated with the emissions from the project would be 0.0002 and 0.0545 respectively. Therefore, non-carcinogenic hazards are calculated to be within acceptable limits and a less than significant

impact would occur. The analysis evaluates the worst case exposure for the site and therefore is the same for Option 1 and 2. No new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

d) *Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?* **Same Impact as Approved Project – Less Than Significant Impact.**

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The project does not include any uses identified by the BAAQMD as being associated with odors. Both Option 1 and 2 would not have odor impacts.

Construction activities associated with the project may generate detectable odors from heavy-duty equipment exhaust. Construction-related odors would be short-term in nature and cease upon project completion. Any impacts to existing adjacent land uses would be short-term and are considered less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

### **6.3.7 Conclusion**

In conformance with existing General Plan policies and the standard permit conditions above, air quality impacts would be reduced to a less than significant level for both Option 1 and Option 2.

## 6.4 BIOLOGICAL RESOURCES

Issues	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 or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.4.1 Existing Setting

The project site is located within an urbanized area of Downtown San José. The site includes two buildings and a parking lot. A total of three trees are located onsite. However, due to the history of development on

the project site, there is no native vegetation on-site. Additionally, no creeks, rivers, or other water bodies are located on or adjacent to the project site. Developed habitats typically support common wildlife species such as Rock Dove and, as discussed in Downtown Strategy 2040 FEIR, native bird species commonly found in developed habitats in San José include the house finch, northern mockingbird, Anna's hummingbird, and California towhee.

The project site contains three existing street trees, all of which measure 6-24 inches in trunk diameter. None of the trees on or adjacent to the project site are considered to be native to this part of California. There are no Heritage trees on-site.

#### **6.4.2 Applicable Plans, Policies and Regulations**

##### ***Migratory Bird Treaty Act***

Migratory birds, including raptors (i.e., birds of prey) are protected by the Migratory Bird Treaty Act (MBTA). The MBTA prohibits killing, possessing, or trading in migratory birds, except under the terms of a valid permit issued pursuant to Federal regulations. The MBTA protects whole birds, parts of birds, bird nests, and eggs.

##### ***Santa Clara Valley Habitat Plan/ Natural Community Conservation Plan***

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHCP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The SCVHCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The project site is located within the boundaries of the SCVHCP and is designated *Urban- Suburban* which comprises of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures.

##### ***City of San José Tree Ordinance***

The City of San José tree ordinance (Chapter 13.32 of the Municipal Code) regulates the removal of trees. A tree removal permit is required by the City prior to the removal of any trees covered under the ordinance. An "ordinance-size tree" is:

- a single trunk measuring 38 inches or more in circumference at the height of 54 inches (i.e, 4 ½ feet) above natural grade; or
- a multi-trunk with combined measurements of each trunk circumference at 54 inches (i.e, 4 ½ feet) above natural grade adding up to 38 inches or more.

On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

The City's Heritage Tree List identifies more than 100 trees with special significance to the community because of their size, history, unusual species, or unique quality. Pursuant to Chapter 13.28 of the San Jose



Municipal Code, it is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

### *City of San José General Plan*

The City's General Plan includes the following biological resource policies applicable to the project:

- Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
- Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
- Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
- Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
- Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

### **6.4.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on biological resources do not substantially differ between the two scenarios.

- 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 or U.S. Fish and Wildlife Service?*  
**Same Impact as Approved Project – Less Than Significant Impact.**

The project site is currently located in an urbanized area of Downtown San José and is currently occupied by two buildings and a parking lot. Due to the history of development on the project site, there is no native vegetation on-site. Additionally, no creeks, rivers, or other water bodies are located on or adjacent to the project site. Vegetation and wildlife impacts that would occur on the project site due to temporary or permanent loss of existing landscape plants and shrubs as a result of development of the project would be less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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 California Department of Fish and*

*Game or US Fish and Wildlife Service? Same Impact as Approved Project – Less Than Significant Impact.*

The project site is currently a surface parking lot and occupied by a single-story brick building used as office with a parking lot and a two-story wood-framed building comprised of four residential apartments. Vegetation on-site consists of some existing landscaping and three trees on-site. There is no native vegetation. The closest waterway to the project is Guadalupe River, which is located approximately 0.5-mile east of the project site.

Because of the history of development on-site, no natural or sensitive habitats exist that would support endangered, threatened, or special status wildlife species. Vegetation and wildlife impacts that would occur on the project site due to temporary or permanent loss of existing landscape plants and shrubs as a result of development of the project would be less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? Same Impact as Approved Project – Less Than Significant Impact.*

The project would be located on existing parcels within existing urban development. The project site contains no wetlands or wildlife migration corridors as defined by Section 404 of the Clean Water Act. There are no trees proposed to be removed that would include removal of ordinance-sized protected trees. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? Same Impact as Approved Project – Less Than Significant Impact with Mitigation.*

As previously discussed, there are currently three trees located on the project site. While use of the trees for raptor nesting is unlikely due to the size of the trees and limited cover provided, other migratory birds could use the trees for nesting. In conformance with the MBTA, Envision 2040 General Plan Policy ER-5.2, and the Downtown Strategy 2040 FEIR, the project would implement measures to avoid impacts to nesting migratory birds. The project, with the incorporation of these measures, would result in a less than significant impact on nesting/foraging migratory birds. The following mitigation measures were identified as part of the certified Downtown Strategy 2040 FEIR. If these measures are implemented for future construction within the creek corridors and established setbacks, impacts would be less than significant.

Consistent with the certified Downtown Strategy 2040 FEIR measure above, the project will implement the following biological mitigation measure with the aim to reduce impacts to nesting/foraging migratory birds. The language of the mitigation measure below has been revised to reflect current City policies and standards. The following mitigation measure retains the same intent and purpose of the mitigation measure identified in the Downtown Strategy 2040 FEIR.

**Mitigation Measures:**

- Impact BIO-1:** Development of the project would impact nesting raptors and other migratory breeding birds, if present on-site or in the immediate vicinity.

- MM BIO-1.1:** The project applicant shall schedule ground disturbance activities such as demolition and construction between September 1<sup>st</sup> and January 31<sup>st</sup> (inclusive) to avoid the nesting season. If construction cannot be scheduled to occur outside the nesting season, pre-construction surveys for nesting raptors and other migratory breeding birds (including yellow warblers) shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Between February 1<sup>st</sup> and April 30<sup>th</sup> (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to initiation of construction activities (including any ground-disturbing activities) or tree relocation or removal. Between May 1<sup>st</sup> and August 31<sup>st</sup> (inclusive), pre-construction surveys shall be conducted no more than 30 days prior to initiation of these activities. During the surveys, the qualified ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent (within 250 feet) to the construction area for nests.
- MM BIO-1.2:** If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged.
- MM BIO-1.3:** The project applicant shall submit a report prepared by a qualified ornithologist indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning or Director's designee prior to any tree removal, or issuance of any grading permit or demolition permits whichever occurs first.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?* **Same Impact as Approved Project – Less Than Significant Impact.**

While the project site is urbanized and within a larger urbanized area, there are trees on and adjacent to the site that are part of the urban forest. Within the City of San José, the urban forest as a whole is considered an important biological resource because most trees provide some nesting, cover, and foraging habitat for birds and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the best commonly or locally available habitat within urban areas.

Under Option 1 and Option 2, three street trees with diameters ranging from 6 to 24 inches would be removed to provide access to the proposed garage driveways and to preclude potential construction access issues. Under both options, the project proposes to plant eight Yardwood (*Platanus acerfolia*) street trees adjacent to the project site per San José Downtown Streetscape Master Plan. The installation of these street trees will be within the public right-of-way along entire project street frontage per City standards, specifically the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in cut-outs at the back of curb and will require the City’s Department of Transportation street tree planting permit for any proposed street tree plantings. The locations of these street trees at the development permit stage are conceptual only and will be

finalized at the street improvement stage in consultation with the City Arborist. These requirements will be outlined as conditions in the proposed Special Use Permit.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? **Same Impact as Approved Project - Less Than Significant Impact.***

The project site is located within the Santa Clara County Habitat Plan study area and would be subject to all applicable Habitat Plan fees. The project site is designated as “Urban– Suburban” land cover type in the Habitat Plan and is not designated a natural community area or identified as important habitat for endangered and threatened species. Therefore, the development of the project site would not result in direct impacts to any of the Habitat Plan’s covered species.

#### ***Nitrogen Deposition Impacts on Serpentine Habitat***

According to the Downtown Strategy 2040 FEIR, the USFWS has indicated concerns regarding nitrogen deposition from air pollution that can affect plant composition in serpentine grasslands and the bay checkerspot butterfly in south Santa Clara County area. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of several federally – listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the Habitat Plan for new vehicle trips can be used to purchase conservation land for the Bay checkerspot butterfly.

As mentioned above, the project is consistent with the Habitat Plan, which is based on the conclusion that no impacts to any of the Habitat Plan’s covered species would occur under the project. With the implementation of the Habitat Plan, the cumulative impacts of development City-wide and within the areas of Santa Clara County covered by the Habitat Plan would be offset through conservation and management of land for the Bay checkerspot butterfly. The project would implement the following Standard Permit Conditions.

#### ***Standard Permit Conditions***

The project is subject to applicable Santa Clara Valley Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

#### **6.4.4 Conclusion**

Potential impacts on biological resources would be the same under Option 1 and Option 2. The project site is located within an urbanized area of San José with prior development on the project site. There are no native vegetation, creeks, rivers, or other water bodies located on or adjacent to the project site. The project site includes some trees that are part of the urban forest within the City. Under both options, three street trees with diameters ranging from 6 to 24 inches would be removed to provide access to the proposed garage driveways and to preclude potential construction access issues. These trees could provide nesting habitat for birds, including migratory birds and raptors. Option 1 and Option 2 would be required to conform with existing General Plan policies, City Tree Ordinance policy, as well as the California State Fish and Game Code and Migratory Bird Treaty Act, which would ensure that biological impacts from the redevelopment of this urban property would be reduced to a less than significant level for both Option 1 and Option 2.

## 6.5 CULTURAL/TRIBAL CULTURAL RESOURCES

Issues	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 in § 15064.5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. 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:					
i) 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) 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 Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A Cultural Resources Report was prepared by Pacific Legacy (October 2017) to evaluate impacts to potential historic and archeological resources on the proposed site. A Historic Period Built Environment Report, prepared by Brunzell Historical (August 2018) to evaluate the historic eligibility of structures located on the project site. These reports are provided in Appendix E and F, respectively.

### **6.5.1 Existing Setting**

The 0.42-acre project site is a surface parking lot, single-story brick building (Pallesen Building) used as office space with a parking lot to the south side, a two-story wood-framed building (Pallesen Apartments) comprised of four residential apartments, and a neon sign (City Center Motel Sign) at the southeast corner of the property. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

### **6.5.2 Conclusion**

As proposed, the project would construct a high density residential structure. Under both Option 1 and Option 2, the project would demolish the Pallesen Apartments which is eligible for listing on the National Register and California Register and is on the City's Historic Resources Inventory as a Structure of Merit, and the Pallesen Building which is on the City's Historic Resources Inventory as a Structure of Merit. Additionally, the project is proposing to move the City Center Motel Sign, which is identified as eligible for the National Register and California Register. Furthermore, impacts to yet unrecorded subsurface archaeological resources were identified.

Based on the potential to impact historic structures and subsurface resources, the project could result in a significant and unavoidable impact to cultural resources. As part of Assembly Bill (AB) 52 requirements, lead agencies are required to conduct 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. The consistency of the proposed cultural resources with the City's Envision San José 2040 General Plan, and other major development studies, in addition to tribal cultural resources, is evaluated in the SEIR for this project. No further analysis is provided in this Initial Study.

## 6.6 GEOLOGY AND SOILS

Issues	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:					
i. 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



## **6.6.1 Existing Setting**

### ***Soils and Groundwater***

The project site is in the Santa Clara Valley, which is flanked on the west by the Santa Cruz Mountains, on the east by the Diablo Range, and the San Francisco Bay to the north. The mountain ranges to the east and west consist of older Franciscan and related rocks and overlying sedimentary rocks ranging in age from the Cretaceous through Tertiary time. The valley's basin contains alluvial deposits derived from the Diablo Range and the Santa Cruz Mountains. Sediments in the site vicinity consist of Holocene age mainly continental deposits of unconsolidated to semi-consolidated alluvium, though includes some marine deposits near the coast.

The site lies at an elevation of approximately 101 feet above mean sea level and is predominantly flat. Soil conditions at the proposed project site consists of alluvial deposits consisting of interbedded layers of clay, silt, sand, and gravel. According to the Phase II ESA, groundwater was encountered at the project site at a depth of approximately 13.26 feet below ground surface (bgs) at one boring site (E-2) and approximately 14 feet bgs at another (E-6) (Appendix G-2).

### ***Seismicity and Seismic Hazards***

The project area is not located within the Alquist-Priolo Earthquake Fault Zone<sup>4</sup> or the Santa Clara County Geologic Hazard Zone<sup>5</sup> and no active faults have been mapped on the project site. However, the site is in a designated Landslide and Liquefaction Zones<sup>6</sup>. The City of San José is within one of the most seismically active areas in the United States, capable of generating an earthquake with a magnitude 6.7 or greater. 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. Development in the City is likely to be exposed to strong ground shaking within the useful lifetime of new development.

## **6.6.2 Applicable Plans, Policies and Regulations**

### ***Alquist-Priolo Earthquake Fault Zoning Act***

The Alquist-Priolo Earthquake Fault Zoning Act regulates development and construction of buildings intended for human occupancy to avoid the hazard of surface fault rupture. The act categorizes faults as active (Historic and Holocene age), potentially active (Late Quaternary and Quaternary age), and inactive (pre-Quaternary age). The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the 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. This Act requires the State Geologist to establish regulatory zones (Earthquake Fault Zones) around the surface traces of mapped active faults, and to publish appropriate maps that depict these zones.

### ***California Building Code***

The California Building Code (CBC), Part 2 of Title 24 of the California Code of Regulations (CCR), is based on the International Building Code and prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including

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<sup>4,6</sup> California Department of Conservation, Regulatory Maps. Available at: <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed October 17, 2017.  
<sup>5</sup>County of Santa Clara \Department of Planning and Development, Geological Maps and Data, Map 20. Available at: [https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO\\_GeohazardATLAS.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf). Accessed October 17, 2017.

occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code. Building permits for individual projects within the Plan Area will be reviewed to ensure compliance with the CBC.

### ***City of San José Envision San José 2040 General Plan***

The City's Envision San José 2040 General Plan includes the following policies applicable to all development projects in San José.

- Policy 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.
- Policy 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.
- Policy EC-4.2: Development 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 the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
- Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
- Policy 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 grading occurring between October 1 and April 30.
- Policy 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.
- Action 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.

### **6.6.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on geology and soils do not substantially differ between the two scenarios.

a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*

- i. *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. **Same Impact as Approved Project – Less Than Significant Impact.***

The Alquist-Priolo Earthquake Fault Zoning Act (Act) was passed in 1972 to address the hazard of surface faulting to structures for human occupancy. The Act's main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The Act requires the State Geologist to establish regulatory zones, known as "Alquist-Priolo (AP) Earthquake Fault Zones" around the surface traces of active faults and to issue appropriate maps.

If an active fault is found, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (typically 50 feet). According to the California Department of Conservation Alquist-Priolo mapping data, the project site is not located within an AP Earthquake Fault Zone<sup>6</sup>. There are no known active or potentially active faults trending towards or through the project site; however, the project site lies within the region affected by the active San Andreas Fault system, which influences faults throughout the region, including the Hayward and Calaveras faults<sup>7</sup>. Several smaller faults including the Evergreen, Quimby, Piercy, and Clayton faults, are also found in the project vicinity, primarily along the base of the San José Foothills. Although a known fault is not mapped on or proximate to the project site, the project is located within a seismically active region. However, the possibility of significant fault rupture on the project site is considered to be less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- ii. *Strong seismic ground shaking? **Same Impact as Approved Project – Less Than Significant Impact.***

Although a known fault is not mapped on or proximate to the project site, the project is located within a seismically active region and strong seismic ground shaking could occur. The Association of Bay Area Governments (ABAG) Resilience Program maps shows various faults throughout the region. The project would be required to be in conformance with the CBC, City regulations, and other applicable standards. Conformance with standard engineering practices and design criteria would reduce the effects of seismic ground shaking to a less than significant level. The project would be built and maintained in accordance with a site-specific geotechnical report, as required by the Downtown Strategy 2040 FEIR and outlined in the Standard Permit Condition below.

#### ***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

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<sup>6</sup> California Department of Conservation, Regulatory Maps. Available at: <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed October 17, 2017.

<sup>7</sup> Seismic Hazard Zone report for the San José East 7.5-Minute Quadrangle, Santa Clara County, California, 2000.

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.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

iii. *Seismic-related ground failure, including liquefaction?* **Same Impact as Approved Project – Less Than Significant Impact.**

Liquefaction generally occurs as a “quicksand” type of ground failure caused by strong ground shaking. The primary factors influencing liquefaction potential include groundwater, soil type, relative density of the sandy soils, confining pressure, and the intensity and duration of ground shaking. As discussed in the City’s Envision San José 2040 General Plan EIR, the project site is located in a State seismic hazard zone specific to liquefaction. All structures and foundations requiring building permits would be required to meet California Building Code requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Adherence to the California Building Code would ensure that the seismic and liquefaction impact is less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

iv. *Landslides?* **Same Impact as Approved Project – Less Than Significant Impact.**

Landslides are mass movements of the ground that include rock falls, relatively shallow slumping and sliding of soil, and deeper rotational or transitional movement of soil or rock. The project site is relatively flat and is not located in an area mapped as an earthquake-induced landslide hazard area. However, the project is located within a seismically active region and a low potential for impacts resulting from landslides could occur. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

b) *Result in substantial soil erosion or the loss of topsoil?* **Same Impact as Approved Project – Less Than Significant Impact.**

Grading during the construction phase of the project would displace soils and temporarily increase the potential for soils to be subject to wind and water erosion. However, erosion and loss of topsoil can be controlled using standard construction practices. During construction, erosion control plans would be utilized to minimize soil erosion during construction. The project would implement Standard Permit Conditions to reduce potential erosion impacts during project construction.

***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.

With adherence to the applicable practices and regulations, impacts would be considered less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? **Same Impact as Approved Project.***

Soil samples were collected as a part of the Phase II Investigation conducted for the project site (Appendix G-2). The project site is blanketed with up to nine feet of medium stiff clay and sandy clay. The clay is underlain with a layer of very loose to loose clayey sand and silty sand which varies in thickness and extends to a maximum depth of 18 feet bgs. At a depth of 51 to 56 feet bgs is soft to stiff clay with varying amounts of sand and silt. Beneath that layer is a medium dense to very dense sand layer with varying amounts of clay and gravel for an additional 10 to 28 feet. The maximum depth explored for soil sampling was 44 feet bgs.

The project is located in an area mapped as a liquefaction hazard; however, the project would be required to be in conformance with the California Building Code, City regulations, and other applicable standards. In conformance with the certified Downtown Strategy 2040 FEIR and current standard practices in the City of San José, the project proposes to implement the Standard Permit Conditions outlined in response 6.6 (a)(ii) above to reduce significant soil impacts to a less than significant level. Implementation of these measures would substantially reduce adverse effects on proposed improvements associated with soil conditions on the site.

- d) *Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2013), creating substantial risks to life or property? **Same Impact as Approved Project – Less Than Significant Impact.***

The project would be required to be in conformance with the California Building Code, City regulations, and other applicable standards. Refer to response 6.6 (c) for more information. Conformance with standard engineering practices and design criteria would reduce impacts related to expansive soil potential to a less than significant level. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? **Same Impact as Approved Project – Less Than Significant Impact.***

The project would not include the implementation of septic tanks or alternative wastewater disposal systems. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? **Same Impact as Approved Project – Less Than Significant Impact.***

The project site has been previously graded and developed and does not support or contain any unique geologic feature. Based on the age and type of surface soils, there is low potential to impact undiscovered resources. While the project site is located within a high sensitivity area (at depth) for paleontological resources, subsurface testing and excavation in the immediate project area, including project sites closer to Guadalupe River than the project site, has failed to yield any evidence of paleontological deposits. Furthermore, the Downtown Strategy 2040 FEIR determined that development in the downtown area has a low potential to impact undiscovered paleontological resources, based on the age and type of surface soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials.

As the project proposes four-levels of below-grade parking that requires excavation, which has the potential for encountering paleontological resources during construction. Construction activities may result in the accidental destruction and disturbance of paleontological resources and would result in a significant impact to paleontological resources. The City would require the project to comply with all applicable regulatory programs pertaining to unknown buried paleontological resources including the following Standard Permit Conditions for avoiding and reducing construction-related paleontological resources impacts.

#### ***Standard Permit Conditions***

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.

Because the proposed project would comply with the applicable City policies and regulatory programs related to paleontological resources, implementation of the proposed project including the Standard Permit Conditions would have a less than significant paleontological resources impact.

#### **6.6.4 Conclusion**

With implementation of General Plan policies, conformance with regulatory standards and standard permit conditions, the project would result in less than significant impacts to geology and soils and paleontological resources for both Option 1 and Option 2, and would not significantly expose people or structures to adverse seismic risks.

## 6.7 GREENHOUSE GAS EMISSIONS

Issues	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 emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

An Air Quality/Greenhouse Gas Assessment for Option 1 was prepared by Michael Baker International (January 2018) to evaluate air quality impacts and greenhouse gas emissions associated with the project. This report is provided in Appendix C-1. An Air Quality/Greenhouse Gas Assessment for Option 2 was prepared by Kimley Horn (June 2019) and is provided in Appendix C-2.

### 6.7.1 Existing Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere. Climate change is the observed increase in the average temperature of the Earth’s atmosphere and oceans along with other substantial changes in climate—such as wind patterns, precipitation, and storms—over an extended period of time. Gases that absorb and re-emit infrared radiation in the atmosphere are called greenhouse gases (GHGs). GHGs are present in the atmosphere naturally, are released by natural sources, or are formed from secondary reactions taking place in the atmosphere. The gases that are widely seen as the principal contributors to human-induced climate change include carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxides (N<sub>2</sub>O), fluorinated gases such as hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>). Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

The approximately 0.42-acre project site is currently a paved parking lot with associated striping and curbing, two building structures, some landscaping, and an iron fence located around the northwestern parking lot. GHG emissions are generated from motor vehicle trips traveling to and from the site and total energy consumer for on-site operations (e.g. heating, cooling and lighting).

### 6.7.2 Applicable Plans, Policies and Regulations

To date, no national standards have been established for nationwide GHG reduction targets, nor have any regulations or legislation been enacted specifically to address climate change and GHG emissions reduction at the project level. Various efforts have been promulgated at the federal level to improve fuel economy and energy efficiency to address climate change and its associated effects.

### ***Energy Independence and Security Act of 2007***

The Energy Independence and Security Act of 2007 (December 2007), among other key measures, requires the following, which would aid in the reduction of national GHG emissions:

- Increase the supply of alternative fuel sources by setting a mandatory Renewable Fuel Standard requiring fuel producers to use at least 36 billion gallons of biofuel in 2022.
- Set a target of 35 miles per gallon for the combined fleet of cars and light trucks by model year 2020, and direct the National Highway Traffic Safety Administration (NHTSA) to establish a fuel economy program for medium- and heavy-duty trucks and create a separate fuel economy standard for work trucks.
- Prescribe or revise standards affecting regional efficiency for heating and cooling products and procedures for new or amended standards, energy conservation, energy efficiency labeling for consumer electronic products, residential boiler efficiency, electric motor efficiency, and home appliances.

### ***U.S. Environmental Protection Agency Endangerment Finding***

The EPA's authority to regulate GHG emissions stems from the U.S. Supreme Court decision in *Massachusetts v. EPA* (2007). The Supreme Court ruled that GHGs meet the definition of air pollutants under the existing Clean Air Act and must be regulated if these gases could be reasonably anticipated to endanger public health or welfare. Responding to the Court's ruling, the EPA finalized an endangerment finding in December 2009. Based on scientific evidence, it was found that six GHGs constitute a threat to public health and welfare. Thus, it is the Supreme Court's interpretation of the existing Act and the EPA's assessment of the scientific evidence that form the basis for the EPA's regulatory actions.

### ***Federal Vehicle Standards***

In response to the U.S. Supreme Court ruling discussed above, the George W. Bush Administration issued Executive Order 13432 in 2007 directing the EPA, the Department of Transportation, and the Department of Energy to establish regulations that reduce GHG emissions from motor vehicles, non-road vehicles, and non-road engines by 2008. In 2009, the NHTSA issued a final rule regulating fuel efficiency and GHG emissions from cars and light-duty trucks for model year 2011, and in 2010, the EPA and NHTSA issued a final rule regulating cars and light-duty trucks for model years 2012 – 2016.

In 2010, President Barack Obama issued a memorandum directing the Department of Transportation, Department of Energy, EPA, and NHTSA to establish additional standards regarding fuel efficiency and GHG reduction, clean fuels, and advanced vehicle infrastructure. In response to this directive, the EPA and NHTSA proposed stringent, coordinated federal GHG and fuel economy standards for model years 2017 – 2025 light-duty vehicles. The proposed standards projected to achieve 163 grams per mile of CO<sub>2</sub> in model year 2025, on an average industry fleet-wide basis, which is equivalent to 54.5 miles per gallon if this level were achieved solely through fuel efficiency. The final rule was adopted in 2012 for model years 2017 – 2021, and NHTSA intends to set standards for model years 2022 – 2025 in a future rulemaking. On January 12, 2017, the EPA finalized its decision to maintain the current GHG emissions standards for model years 2022 – 2025 cars and light trucks. It should be noted that the EPA is currently proposing to freeze the vehicle fuel efficiency standards at their planned 2020 level (37 mpg), canceling any future strengthening (currently 54.5 mpg by 2026).



In addition to the regulations applicable to cars and light-duty trucks described above, in 2011, the EPA and NHTSA announced fuel economy and GHG standards for medium- and heavy-duty trucks for model years 2014 – 2018. The standards for CO<sub>2</sub> emissions and fuel consumption are tailored to three main vehicle categories: combination tractors, heavy-duty pickup trucks and vans, and vocational vehicles. According to the EPA, this regulatory program will reduce GHG emissions and fuel consumption for the affected vehicles by 6 to 23 percent over the 2010 baseline.

In August 2016, the EPA and NHTSA announced the adoption of the phase two program related to the fuel economy and GHG standards for medium- and heavy-duty trucks. The phase two program will apply to vehicles with model year 2018 through 2027 for certain trailers, and model years 2021 through 2027 for semi-trucks, large pickup trucks, vans, and all types and sizes of buses and work trucks. The final standards are expected to lower CO<sub>2</sub> emissions by approximately 1.1 billion metric tons and reduce oil consumption by up to 2 billion barrels over the lifetime of the vehicles sold under the program.

In 2018, the President and the EPA stated their intent to halt various federal regulatory activities to reduce GHG emission, including the phase two program. California and other states have stated their intent to challenge federal actions that would delay or eliminate GHG reduction measures and have committed to cooperating with other countries to implement global climate change initiatives. The timing and consequences of these types of federal decisions and potential responses from California and other states are currently speculative.

### ***Clean Power Plan and New Source Performance Standards for Electric Generating Units***

On October 23, 2015, the EPA published a final rule (effective December 22, 2015) establishing the carbon pollution emission guidelines for existing stationary sources: electric utility generating units (80 FR 64510–64660), also known as the Clean Power Plan. These guidelines prescribe how states must develop plans to reduce GHG emissions from existing fossil-fuel-fired electric generating units. The guidelines establish CO<sub>2</sub> emission performance rates representing the best system of emission reduction for two subcategories of existing fossil-fuel-fired electric generating units: (1) fossil-fuel-fired electric utility steam-generating units and (2) stationary combustion turbines. Concurrently, the EPA published a final rule (effective October 23, 2015) establishing standards of performance for GHG emissions from new, modified, and reconstructed stationary sources: electric utility generating units (80 FR 64661–65120). The rule prescribes CO<sub>2</sub> emission standards for newly constructed, modified, and reconstructed affected fossil-fuel-fired electric utility generating units. The U.S. Supreme Court stayed implementation of the Clean Power Plan pending resolution of several lawsuits. Additionally, in March 2017, President Trump directed the EPA Administrator to review the Clean Power Plan in order to determine whether it is consistent with current executive policies concerning GHG emissions, climate change, and energy.

### ***Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006***

California AB 32 was signed into law in September 2006. The bill requires statewide reductions of GHG emissions to 1990 levels by 2020 and the adoption of rules and regulations to achieve the most technologically feasible and cost-effective GHG emissions reductions.

### ***Assembly Bill 1493***

AB 1493 (also known as the Pavley Bill) requires that CARB develop and adopt, by January 1, 2005, regulations that achieve “the maximum feasible reduction of GHG emitted by passenger vehicles and light-

duty trucks and other vehicles determined by CARB to be vehicles whose primary use is noncommercial personal transportation in the State.”

To meet the requirements of AB 1493, CARB approved amendments to the California Code of Regulations (CCR) in 2004 by adding GHG emissions standards to California’s existing standards for motor vehicle emissions. Amendments to CCR Title 13, Sections 1900 and 1961 and adoption of 13 CCR Section 1961.1 require automobile manufacturers to meet fleet-average GHG emissions limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty weight classes for passenger vehicles (i.e., any medium-duty vehicle with a gross vehicle weight rating less than 10,000 pounds that is designed primarily to transport people), beginning with the 2009 model year. Emissions limits are reduced further in each model year through 2016. When fully phased in, the near-term standards will result in a reduction of about 22 percent in GHG emissions compared to the emissions from the 2002 fleet, while the mid-term standards will result in a reduction of about 30 percent.

### ***Assembly Bill 3018***

AB 3018 established the Green Collar Jobs Council (GCJC) under the California Workforce Investment Board (CWIB). The GCJC will develop a comprehensive approach to address California’s emerging workforce needs associated with the emerging green economy. This bill will ignite the development of job training programs in the clean and green technology sectors.

### ***Senate Bill (SB) 97 – Modification to the Public Resources Code***

In August 2007, Governor Schwarzenegger signed SB 97. SB 97 required the Office of Planning and Research to prepare, develop, and transmit guidelines to the Resources Agency for the mitigation of GHG emissions or the effects of GHG emissions including, but not limited to, the effects associated with transportation and energy consumption. The Resources Agency adopted the CEQA Guidelines Amendments addressing GHG emissions on December 30, 2009.

### ***Senate Bill 375 – Sustainable Communities and Climate Protection Act***

SB 375 encourages housing and transportation planning on a regional scale in a manner designed to reduce vehicle use and associated GHG emissions. The bill requires the California Air Resources Board (CARB) to set regional targets for the purpose of reducing GHG emissions from passenger vehicles for 2020 and 2035. Per SB 375, CARB appointed a Regional Targets Advisory Committee on January 23, 2009 to provide recommendations on factors to be considered and methodologies to be used in CARB’s target setting process. The per capita reduction targets set for passenger vehicles in the San Francisco Bay Area are a seven percent reduction by 2020 and a 15 percent reduction by 2035.

### ***Senate Bills 1078 and 107***

SB 1078 (Chapter 516, Statutes of 2002) requires retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20 percent of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010.

### ***Senate Bill 1368***

SB 1368 (Chapter 598, Statutes of 2006) is the companion bill of AB 32 and was signed into law in September 2006. SB 1368 required the California Public Utilities Commission (CPUC) to establish a performance standard for baseload generation of GHG emissions by investor-owned utilities by February 1,

2007. SB 1368 also required the CEC to establish a similar standard for local publicly owned utilities by June 30, 2007. These standards could not exceed the GHG emissions rate from a baseload combined-cycle, natural gas fired plant. Furthermore, the legislation states that all electricity provided to California, including imported electricity, must be generated by plants that meet the standards set by CPUC and CEC.

### ***Senate Bill 32***

Signed into law in September 2016, SB 32 codifies the 2030 GHG reduction target in Executive Order B-30-15 (40 percent below 1990 levels by 2030). The bill authorizes CARB to adopt an interim GHG emissions level target to be achieved by 2030. CARB also must adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective GHG reductions.

### ***Senate Bill 100 (California Renewables Portfolio Standards Program: Emissions of Greenhouse Gases)***

Signed into Law in September 2018, SB 100 increased California's renewable electricity portfolio from 50 to 60 percent by 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045.

### ***CARB Scoping Plan***

CARB adopted its Scoping Plan on December 11, 2018. The Scoping Plan functions as a roadmap to achieve GHG reductions in California required by AB 32 through subsequently enacted regulations. CARB's Scoping Plan contains the main strategies California will implement to reduce CO<sub>2</sub>e emissions by 174 million metric tons (MT), or approximately 30 percent, from the State's projected 2020 emissions level of 596 million MT CO<sub>2</sub>e under a business as usual (BAU) scenario. This is a reduction of 42 million MT CO<sub>2</sub>e, or almost ten percent, from 2002 to 2004 average emissions, but requires the reductions in the face of population and economic growth through 2020.

CARB's Scoping Plan calculates 2020 BAU emissions as the emissions that would be expected to occur in the absence of any GHG reduction measures. The 2020 BAU emissions estimate was derived by projecting emissions from a past baseline year using growth factors specific to each of the different economic sectors (e.g., transportation, electrical power, commercial and residential, industrial, etc.). CARB used three-year average emissions, by sector, for 2002 to 2004 to forecast emissions to 2020. The measures described in CARB's Scoping Plan are intended to reduce the projected 2020 BAU to 1990 levels, as required by AB 32.

AB 32 requires CARB to update the Scoping Plan at least once every five years. CARB adopted the first major update to the Scoping Plan on May 22, 2014. The updated Scoping Plan summarizes recent science related to climate change, including anticipated impacts to California and the levels of GHG reduction necessary to likely avoid risking irreparable damage. It identifies the actions California has already taken to reduce GHG emissions and focuses on areas where further reductions could be achieved to help meet the 2020 target established by AB 32. The Scoping Plan update also looks beyond 2020 toward the 2050 goal, established in Executive Order S-3-05, and observes that "a mid-term statewide emission limit will ensure that the State stays on course to meet our long-term goal." The Scoping Plan update did not establish or propose any specific post-2020 goals, but identified such goals adopted by other governments or recommended by various scientific and policy organizations.

### ***Santa Clara County Climate Action Plan 2009***

The Santa Clara County Climate Action Plan (CAP) focuses on County operations, facilities and employee actions that will reduce not only GHG emissions but also energy and water consumption, solid waste and

fuel consumption. These are areas of opportunity for the County to make a difference, set a good example, and in many cases, save money. The GHG emission reduction goals require a change from “business as usual” to attain them. The goals were to stop increasing the amount of emissions by 2010, decrease emissions by 10 percent every 5 years from 2010 – 2050, and reach an 80 percent reduction by 2050. The CAP is being issued in the context of legislative and regulatory action at the federal and state level. California’s climate change goals are set forth in AB 32, the Global Warming Solutions Act of 2006. This legislation requires a reduction of California GHG emissions to 1990 levels by 2020. In December 2008, CARB approved the Climate Change Scoping Plan Document required by AB 32. The Scoping Plan Document, which provides a roadmap for California to reduce its GHG emissions, recognizes the importance of development and implementation of Climate Action Plans by California cities and counties. Executive Order S-03-05 goes even further by requiring statewide reductions in GHG emissions to 80 percent below 1990 by the year 2050.

### ***BAAQMD CEQA Guidelines and 2017 Bay Area Clean Air Plan***

BAAQMD recently adopted new CEQA Guidelines (June 2010, Updated May 2017). The new guidelines supersede the previously adopted 2010 CEQA Guidelines and include new and updated thresholds for analyzing air quality impacts, including a threshold for GHG emissions. Under these thresholds, if a project would result in an operational-related GHG emission of 1,100 metric tons (MT) (or 4.6 MT per service population<sup>8</sup>) of carbon dioxide equivalents (CO<sub>2</sub>e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs.<sup>9</sup>

### **Envision San José 2040 General Plan**

The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City’s Greenhouse Gas (GHG) Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies a series of GHG emissions reduction measures to be implemented by development projects that would allow the City to achieve its GHG reduction goals. The City of San José approved a Supplemental Program EIR for the Envision 2040 General Plan to include and update the greenhouse gas emissions analysis in December 2015. Multiple policies and actions in the Envision San José 2040 General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City’s Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and the recent standards for “qualified plans” as set forth by BAAQMD.

### ***City of San José Greenhouse Gas Reduction Strategy***

The City of San José adopted a Greenhouse Gas Reduction Strategy on November 1, 2011, to be consistent with the implementation requirements of AB 32. A Supplemental EIR for the Greenhouse Gas Reduction Strategy was adopted on December 15, 2015. AB 32 requires the State of California as a whole to reduce GHG emissions to 1990 levels by the year 2020. The Greenhouse Gas Reduction Strategy seeks to reduce GHG emissions within the City through a number of sustainable actions, including minimizing car travel,

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<sup>8</sup> Service Population (SP) is an efficiency-based measure used by BAAQMD to estimate the development potential of a general or area plan. Service Population is determined by adding the number of residents to the number of jobs estimated for a given point in time

<sup>9</sup> Bay Area Air Quality Management District, *CEQA Guidelines*, May 2011

building site locations that optimize solar installation potential either for heating water or for electricity generation, planting trees to help mitigate heat island effects, and providing access to safe, pedestrian friendly sidewalks, trails and bike paths, as well as mass transit.

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

Compliance with the mandatory measures and voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. Implementation of the proposed General Plan through 2020 would not constitute a cumulatively considerable contribution to global climate change.

### **6.7.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on greenhouse gas emissions do not substantially differ between the two scenarios.

*a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? **Same Impact as Approved Project – Less Than Significant Impact.***

Option 1 and 2 of the project would generate greenhouse gas emissions from direct and indirect sources. The project would result in direct and indirect emissions of CO<sub>2</sub>, N<sub>2</sub>O, and CH<sub>4</sub>, and would not result in other GHGs that would facilitate a meaningful analysis. Therefore, this analysis focuses on three forms of GHG emissions: direct project-related GHG emissions, indirect project-related sources of GHGs, and total project-related sources of GHGs. Direct project-related GHG emissions include emissions from construction activities, area sources, and mobile sources, while indirect sources include emissions from electricity consumption, water demand, and solid waste generation. Operational GHG estimations are based on energy emissions from natural gas usage and automobile emissions. presents the estimated CO<sub>2</sub>, N<sub>2</sub>O, and CH<sub>4</sub> emissions of the project.

#### ***Direct Project-Related Sources of Greenhouse Gases***

**Construction Emissions.** Both Option 1 and 2 of the project would result in 56.79 MTCO<sub>2</sub>eq/year (amortized over 30 years), which represents a total of approximately 1,822.47 MTCO<sub>2</sub>eq from construction activities.

**Area Source.** Option 1 would result in 22.65 MTCO<sub>2</sub>eq/year from area source GHG emissions while Option 2 would result in 31.94 MTCO<sub>2</sub>eq/yr.

**Mobile Source.** Option 1 would directly result in 1,444 MTCO<sub>2</sub>eq/year of mobile source-generated GHG emissions and Option 2 would result in 1,803 MTCO<sub>2</sub>eq/year.

#### ***Indirect Project-Related Sources of Greenhouse Gases***

**Energy Consumption.** Electricity would be provided to the project site via Pacific Gas and Electric Company (PG&E). As noted in Table 6, the project would indirectly result in 658.23 MTCO<sub>2</sub>eq/year due to energy consumption for Option 1. In Table 7, Option 2 would result in 984.20 MTCO<sub>2</sub>eq/year.

Solid Waste. As described in Table 6, solid waste associated with operations of the project would result in 68.70 MTCO<sub>2</sub>eq/year while Table 7 describes Option 2 as 143.59 MTCO<sub>2</sub>eq/yr.

Water Demand. The project operations would result indirect energy impacts due to water demand would result in 67.97 MTCO<sub>2</sub>eq/year for Option 1 and 143.40 MTCO<sub>2</sub>eq/year for Option 2.

***Total Project-Related Sources of Greenhouse Gases***

As shown in Table 6, the total project-related emissions for Option 1 from indirect and direct sources combined would result in 1,917.53 MTCO<sub>2</sub>eq/year. The project's service population would be made up of residents and employees associated with the residential condominiums and retail space. The project's service population would result in approximately 1.9 MTCO<sub>2</sub>eq per service population per year, which is below the BAAQMD significance thresholds (4.6 MTCO<sub>2</sub>eq per service population per year). The project's contribution of GHG emissions would be less than significant.

As shown in Table 7, the total project-related emissions for Option 2 would result in 3,163 MTCO<sub>2</sub>eq/year. The project's service population is estimated to be approximately 1,275 (residential) which would result in 2.48 MTCO<sub>2</sub>eq per service population per year. This is below BAAQMD significance threshold and therefore Option 2's contribution of GHG emissions would be less than significant.

Therefore, no new or more significant impacts than those analyzed in the Envision San José 2040 General Plan Final and Supplemental EIRs would occur and no new or additional mitigation is required.

**Table 6: Estimated Greenhouse Gas Emissions - Option 1**

Source	CO <sub>2</sub>	CH <sub>4</sub>		N <sub>2</sub> O		Total MTCO <sub>2</sub> eq <sup>3</sup>
	MT/yr <sup>1</sup>	MT/yr <sup>1</sup>	MTCO <sub>2</sub> eq <sup>2</sup>	MT/yr <sup>1</sup>	MTCO <sub>2</sub> eq <sup>2</sup>	
<b>Direct Emissions</b>						
Construction (total of 1,822.47 MTCO <sub>2</sub> eq amortized over 30 years)	56.58	0.01	0.20	0.00	0.00	56.79
Area Source	15.11	0.00	0.09	0.00	0.06	15.26
Mobile Source	1,069.29	0.04	1.08	0.00	0.00	1,070.36
<b>Total Direct Emissions<sup>3</sup></b>	1,140.98	0.06	1.37	0.00	0.06	1,142.42
<b>Indirect Emissions</b>						
Energy	633.59	0.03	0.64	0.01	2.08	636.31
Solid Waste	28.14	1.66	41.58	0.00	0.00	69.73
Water Demand	48.80	0.63	15.74	0.02	4.53	69.08
<b>Total Indirect Emissions<sup>3</sup></b>	710.53	2.32	57.97	0.02	6.61	775.11
<b>Total Project-Related Emissions<sup>3</sup></b>	<b>1,917.53 MTCO<sub>2</sub>eq</b>					
<b>Total Service Population Emissions<sup>4</sup></b>	<b>1.9 MTCO<sub>2</sub>eq/SP</b>					
<b>Threshold of Significance</b>	<b>4.6 MTCO<sub>2</sub>eq/SP</b>					
<b>Project Exceed Thresholds?</b>	<b>No</b>					
Notes:						
<ol style="list-style-type: none"> <li>1. Emissions calculated using CalEEMod 2016.3.2. Emissions incorporate reductions from design features such as the downtown infill locations, increase in density, and increase in diversity as the project involves a mixed-use project with 290 dwelling units on an approximately 0.5-acre site in Downtown San Jose.</li> <li>2. Carbon dioxide equivalent values calculated using the U.S. EPA Website, <i>Greenhouse Gas Equivalencies Calculator</i>, <a href="https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator">https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator</a>, accessed August 2018.</li> <li>3. Totals may be slightly off due to rounding.</li> <li>4. Service population emissions are based on a service population of 970 assuming one trip is made to and from the project site by the anticipated total daily trips associated with number of residents and employees (1,940). The service population also conservatively assumes only a single occupant for each trip.</li> <li>5. The project's total service population emissions were calculated by dividing the total proposed project-related emissions (1,917.53 MTCO<sub>2</sub>eq/yr) by the service population (970); therefore, 1,917.53/970 = 1.9.</li> </ol>						
Refer to <u>Appendix A of Appendix C-1, Air Quality/Greenhouse Gas Emissions Data</u> , for detailed model input/output data.						
Source: Michael Baker International, 2018 and Kimley-Horn, 2019.						

**Table 7: Estimated Greenhouse Gas Emissions - Option 2**

Source	CO <sub>2</sub>	CH <sub>4</sub>		N <sub>2</sub> O		Total MTCO <sub>2</sub> eq <sup>3</sup>
	MT/yr <sup>1</sup>	MT/yr <sup>1</sup>	MTCO <sub>2</sub> eq <sup>2</sup>	MT/yr <sup>1</sup>	MTCO <sub>2</sub> eq <sup>2</sup>	
<b>Direct Emissions</b>						
Construction (total of 1,822.47 MTCO <sub>2</sub> eq amortized over 30 years)	56.58	0.01	0.20	0.0	0.0	56.79
Area Source	31.61	0.01	0.19	0.00044	0.13	31.94
Mobile Source	1,801.12	0.07	1.75	0.0	0.0	1,802.90
<b>Total Direct Emissions<sup>3</sup></b>	<i>1,889.31</i>	<i>0.09</i>	<i>2.14</i>	<i>0.00</i>	<i>0.13</i>	<i>1,891.63</i>
<b>Indirect Emissions</b>						
Energy	979.86	0.04	1.00	0.01	2.98	984.20
Solid Waste	57.96	3.43	85.75	0.0	0.00	143.59
Water Demand	101.31	1.31	32.75	0.03	8.94	143.40
<b>Total Indirect Emissions<sup>3</sup></b>	<i>1,139.13</i>	<i>4.78</i>	<i>119.50</i>	<i>0.04</i>	<i>11.92</i>	<i>1,271.19</i>
<b>Total Project-Related Emissions<sup>3</sup></b>	<b>3,162.82 MTCO<sub>2</sub>eq</b>					
<b>Total Service Population Emissions<sup>4</sup></b>	<b>2.48 MTCO<sub>2</sub>eq/SP</b>					
<b>Threshold of Significance</b>	<b>4.6 MTCO<sub>2</sub>eq/SP</b>					
<b>Project Exceed Thresholds?</b>	<b>No</b>					
Notes:						
1. Emissions calculated using CalEEMod 2016.3.2. Emissions incorporate reductions from design features such as the downtown infill locations, increase in density, and increase in diversity as the project involves a mixed-use project with 290 dwelling units on an approximately 0.5-acre site in Downtown San Jose.						
2. Carbon dioxide equivalent values calculated using the U.S. EPA Website, <i>Greenhouse Gas Equivalencies Calculator</i> , <a href="https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator">https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator</a> , accessed August 2018.						
3. Totals may be slightly off due to rounding.						
4. Service population emissions are based on a service population of 1,275 based on the Project Description (850 bedrooms with 1.5 people per bedroom = 1,275 people).						
5. The project's total service population emissions were calculated by dividing the total proposed project-related emissions (2,275.33 MTCO <sub>2</sub> eq/yr) by the service population (1,275); therefore, 2,275.33/1,275 = 1.8.						
Refer to <u>Attachment A of Appendix C-2, Air Quality/Greenhouse Gas Emissions Data</u> , for detailed model input/output data.						
Source: Michael Baker International, 2018., and Kimley-Horn, 2019						

*b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? Same Impact as Approved Project – Less Than Significant Impact.*

**2017 Clean Air Plan: Spare the Air, Cool the Climate**

The BAAQMD 2017 Clean Air Plan (CAP) contains specific goals, actions, and implementation measures to achieve GHG reduction targets for 2030 and 2050 and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets. The CAP calls for sustainable actions to reduce GHGs including: limiting fossil fuel combustion by increasing efficiency, accelerating low carbon buildings, supporting more energy choices, making buildings more efficient, implementing pricing measures to reduce travel demand. The project consists of sustainable design features that would exceed Title 24 energy efficiency standards by 20 percent. The project would also be required to comply with the California Green Building Standards (CalGreen). As such, the project would include sustainable features



that would comply with the CAP's sustainable actions for reducing GHG emissions. As noted above, the project would result in operational GHG emissions below the BAAQMD thresholds. Further, the project is consistent with the City's designation for the site under the Envision San José 2040 General Plan; thus, the projected GHG emissions in the CAP for the project site would not exceed expectations. Therefore, the project would not conflict with an adopted plan, policy, or regulation pertaining to GHGs. Thus, a less than significant impact would occur in this regard.

### ***City of San José Greenhouse Gas Reduction Strategy***

The Greenhouse Gas Reduction Strategy includes both mandatory measures for all projects and other measures which are considered voluntary. Compliance with the mandatory measures and any voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. The project is consistent with the Land Use/Transportation Diagram designation of Downtown. The project incorporates applicable mandatory measures of the GHG Reduction Strategy, including connections to existing bike and pedestrian facilities and planting and retention of trees to reduce energy use. The project is required to be LEED certified per the City of San José Green Building Ordinance and City Council Policy 6-32, which requires the incorporation of environmentally conscious site and architectural design, including planting new landscaping, trees, and pedestrian connections. Additionally, the project will be required to incorporate bicycle and pedestrian facilities and connections into the project as part of the design review and Building Permit process, consistent with City standards and requirements.

As noted above, the project (both Option 1 and 2) would not exceed BAAQMD thresholds for GHG emissions during construction or operation. In addition, the project includes sustainable design features, and would not develop a land use not already anticipated for in the City's Envision San José 2040 General Plan that would introduce new significant sources of GHG emissions. Therefore, the project would not conflict with the City's Greenhouse Gas Reduction Strategy. Therefore, no new or more significant impacts than those analyzed in the Envision San José 2040 General Plan Final and Supplemental EIRs would occur and no new or additional mitigation is required.

#### **6.7.4 Conclusion**

As proposed, Option 1 and Option 2 include construction of a mixed use residential building. The two existing buildings onsite would be demolished. Under both options, the proposed structure would require excavation to approximately 40 feet below grade to construct four levels of parking. As such, two floor plan options are proposed for the project. Both options would involve the same building footprint and nearly the same exterior building architecture with the exception of some minor differences in the ground floor layout.

Under Option 1 and Option 2, direct project-related GHG emissions include emissions from construction activities, area sources, and mobile sources, while indirect sources include emissions from electricity consumption, water demand, and solid waste generation. Operational GHG estimations are based on energy emissions from natural gas usage and automobile emissions. The project would be LEED certified as required by City Council policy and would achieve LEED NC v4 Certification through the U.S. Green Building Council. Both options will also incorporate bicycle and pedestrian facilities and connections into the project as part of the design review and Building Permit process, consistent with City standards and requirements.

## 6.8 HAZARDS AND HAZARDOUS MATERIALS

Issues	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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The following discussion is based on the information contained within the Phase I Environmental Site Assessment (ESA) and Phase II ESA, prepared by Langan Engineering and Environmental Services, Inc. (Lagan) in August 2017. The Phase I and the results of the Phase II investigation are provided in Appendix G.

### 6.8.1 Existing Setting

The 0.42-acre site is located within an urban area and is predominantly surrounded by residential and commercial uses. The site has been developed since the 1920s with various uses including automotive repair shop. The current buildings on the site were constructed in the 1920s and have since been occupied as residential apartments/units and offices. The two parking lots serve as overflow parking and private parking. Groundwater was encountered at approximately 13 to 14 feet below-ground surface (bgs) at the time of exploration. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

#### *Onsite Sources of Contamination*

Based on a database search, the project site (618 South 1<sup>st</sup> Street site property) is listed on various databases due to the site's use as an automotive repair shop in 1985. The Phase I investigation did not reveal any indication of previous subsurface work, including soil and groundwater sampling performed at the project site. During discussions with the site owner, there was mention of a former underground storage tank (UST) located under the property. However, no record of this reported former UST was identified in any of the databases searched by EDR, or online databases searched by Langan. During the file review at SJFD, a one-page letter from August 16, 1994 stated the UST closure occurred June 17, 1994 per SJFD's requirements. While no further documents or files were located to corroborate the presence of a former UST on-site the closure letter represents a historic REC (HREC) for the proposed project site.

The Phase II investigation included both soil and groundwater sampling to determine whether off-site contamination migrated on to the project site. Benzene, toluene, ethylbenzene, xylenes, naphthalene, phenol, Organochlorine pesticides (OCP), lead, Total Petroleum Hydrocarbon (TPHg), and chromium were detected in the soil samples. Contamination levels exceeded commercial screening thresholds in eight of the samples. One boring detected a concentration of soluble lead (12 mg/L) at 1.5 feet bgs, which exceed the State of California Class I hazardous waste criteria for lead, 5 mg/L. Elevated levels of TPHg were detected in three soil borings at depths ranging from 15 to 44-feet bgs. One boring had elevated levels of VOCs and SVOCs between approximately 26 and 36 feet bgs.

Groundwater samples found petroleum hydrocarbons (TPHg, TPHd, and TPHmo) and VOC compounds above established regulatory levels.

#### *Off-Site Sources of Contamination*

The project site is located in an area in which many of the nearby, and or adjacent properties were historically developed for industrial and commercial purposes. The Phase I ESA has identified the following properties as a Recognized Environmental Condition (REC) and a controlled REC with the project site.

- **REC 1** is an active fuel leak site located at 598 South 1<sup>st</sup> Street across the street underneath the rental-car facility<sup>10</sup>. The site was operated as a Texaco service station from 1973 to 1982 and stored gasoline in three 10,000-gallon fiberglass USTs. The removal of the UST was issued by SJFD in 1981 but no formal documentation regarding the UST removal was located by SAIC Energy, Environment & Infrastructure. According to the Phase I ESA, because the station's upgradient to crossgradient and adjacent proximity to the proposed project site, open regulatory case status, and

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<sup>10</sup> 14-225 (RWQCB) and 07S1E17G02f (SCCLOP)

documented residual groundwater contamination, the former Texaco station is likely to affect environmental conditions at the project site.

- **Controlled REC 1** is located at 561-599 South Market Street and 60 West Reed Street and is currently occupied by The Pierce Apartments.<sup>11</sup> A Deed Restriction was placed on the property on July 17, 2015 for lead and PAH- contaminated soil detected above screening levels for residential land use. The management requirements for the site include no further excavation of contaminated material without agency review and approval, no groundwater extraction, notify damages to remedy and monitoring systems, notify prior to change in land use, notify prior to development, notify prior to subsurface work, prepare a health and safety plan prior to subsurface work, and required all exposed surfaces to be covered. While this property was granted administrative case closure, the property’s proximity to the proposed site and residual soil and groundwater contamination may have a potential effect environmental condition at the project site.
- **Historic REC 1** is located at 618 South 1st Street and is consists of an undocumented UST removal. A former UST located within the 618 South 1st Street Site property. No record of this reported former UST was identified in any of the databases searches conducted for the property. A file review conducted at the SJFD, identified a one-page letter dated August 16, 1994 stating that UST closure at the 618 South 1st Street property occurred on June 17, 1994, and had been completed per SJFD’s requirements. No further documents or files were located to corroborate the presence of a former UST on-Site. Based on the closure letter, this represents a historic REC (HREC) for the site.

Off-site hazardous materials sources within 0.25 mile radius of the project site are listed in Table 8: Hazardous Materials Sites within 0.25 Mile Radius of Project Site.

**Table 8: Hazardous Materials Sites within 0.25 Mile Radius of Project Site**

Address	Distance to Project Site	Hazardous Materials of Issue	Site Description	Status
598 South 1st Street	58 feet north (up/cross gradient)	A former gasoline service station	CORTESE, LUST, HIST LUST, WDS, EDR	Open, undergoing verification monitoring
561-599 South Market Street and 60 East Reed Street	58 feet northwest (up/cross gradient)	Seven USTs associated with former gasoline station abandoned; Lead and PAH- contaminated soil detected above screening levels for residential land use	DEED, SLIC, EDR	Open, undergoing verification monitoring
599 South First Street	58 feet northwest (up/cross gradient)	Seven USTs associated with former gasoline station abandoned	HIST CORTESE, HIST LUST, HIST UST, LUST, EDR	Closed in 2014
HIST UST - historic underground storage tank databases that are no longer updated HIST CORTESE - sites for the list are designated by the State Water Resource Control Board, the Integrated Waste Board, and the Department of Toxic Substances Control LUST – Leaking Underground Storage Tank EDR – Environmental Data Resources, Inc. DEED – Deed restrictions Source: Langan Engineering and Environmental Services, Inc. <i>Phase I Environmental Site Assessment 600 South 1<sup>st</sup> Street</i> . August 29, 2017.				

<sup>11</sup> Santa Clara County Local Oversight Program (SCCLOP) case number: 07S1E17G06s

## ***Airports***

The Norman Y. Mineta San José International Airport is located approximately 2.4 miles northwest of the project site. Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport’s runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding 85 feet in height above ground would require submittal to the FAA for airspace safety review. As the project has a maximum height of 283 feet, notification to the FAA is required to determine the potential for the project to create an aviation hazard.

## ***Wildland Fire Hazards***

The downtown project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires.<sup>12</sup>

### **6.8.2 Applicable Plans, Policies and Regulations**

Hazardous waste generators and users in the City are required to comply with regulations enforced by several federal, state, and county agencies. The regulations are designed to reduce the risk associated with human exposure to hazardous materials and minimize adverse environmental effects. The San José Fire Department coordinates with the Santa Clara County Hazardous Materials Compliance Division to implement the Santa Clara County Hazardous Materials Management Plan and to ensure that commercial and residential activities involving classified hazardous substances are properly handled.

#### ***Government Code Section 65962.5 (Cortese List)***

The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the state, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. Government Code Section 65962.5 requires the California Environmental Protection Agency (Cal/EPA) to develop at least annually an updated Cortese List. The Cortese List includes lists maintained by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).

#### ***California Department of Forestry and Fire Protection (CAL FIRE)***

The California Department of Forestry and Fire Protection (CAL FIRE) has mapped fire threat potential throughout California. CAL FIRE ranks fire threats based on the availability of fuel and the likelihood of an area burning (based on topography, fire history, and climate). The rankings include no fire threat, moderate, high, and very high fire threats.

#### ***City of San José Envision San José 2040 General Plan***

The City’s Envision San José 2040 General Plan includes the following hazardous material policies applicable to the project:

Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive

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<sup>12</sup> California Department of Forestry and Fire Protection. San José VHFHSZ Map. October 8, 2008. Available at: [http://calfire.ca.gov/fire\\_prevention/fhsz\\_maps\\_santaclara.php](http://calfire.ca.gov/fire_prevention/fhsz_maps_santaclara.php). Accessed October 24, 2017.

population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

- Action EC-6.8: The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
- Action EC-6.9: Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.
- Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
- Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
- Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
- Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
- Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.
- Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other

applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action 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.

### 6.8.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on hazards and hazardous materials do not substantially differ between the two scenarios.

a) *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?* **New Less Than Significant Impact with Mitigation Incorporated.**

According to the Phase I ESA conducted for the project, the site was used historically as various restaurants, commercial stores (i.e., print shop, rubber stamp shops, auto and body shop, carpet service), and various residential from the 1920s until early 2000s. The Phase I ESA identified RECs directly associated to the project site, specifically related to previously documented petroleum hydrocarbon contamination at adjacent and upgradient properties. Hazardous materials and petroleum hydrocarbon contamination were considered likely to be present and a Phase II ESA was recommended.

The Phase II ESA collected and tested soil and groundwater samples at the project site. The soil and groundwater analytical found contamination detected at concentrations that exceed construction work safety and residential and commercial/industrial environmental screening levels (ESLs). Testing under the Phase II ESA detected hazardous materials and petroleum hydrocarbon contamination at the site. The Phase II ESA recommended that a Soil and Groundwater Management Plan (SGMP) and a health and safety plan (HASP), be required prior to construction. The Downtown Strategy 2040 FEIR identified that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. The project would routinely use limited amounts of cleaning materials and would not generate substantial hazardous emissions from hazardous materials use. In conformance with local, state, and federal regulations the following mitigation measures identified in the certified Downtown Strategy 2040 FEIR, would be implemented by the project with the oversight of the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, to reduce impacts associated with redevelopment of the site to a less than significant level:

#### **Mitigation Measures:**

**Impact HAZ-1:** Project implementation may encounter soil and groundwater that exceed environmental screening levels during construction activities that could expose construction workers, neighboring uses, and the environment to hazardous materials.

**MM HAZ-1:** The project applicant shall retain a qualified consultant to conduct focused sampling and analysis for contamination of soil, soil vapor, and/or groundwater on-site prior to issuance of any grading permit. Sampling on the site shall be under the regulatory oversight from SCCDEHs Voluntary Cleanup Program to address soil and groundwater contamination discovered on the property. Removal and off-site disposal of the soil at appropriate landfills during construction of the underground

parking lot will likely constitute the mitigation required; however the SCCDEH will approve the proposed mitigation, or if additional groundwater sampling and mitigation is necessary. Based on results of the contamination levels at the site, the project applicant shall prepare, under the guidance of SCCDEH, a Site and Groundwater Management Plan (SGMP) or equivalent report. The SGMP shall provide recommended measures to remediate the long-term environmental or health and safety risks caused by the presence of hazardous materials and contaminants at the site. The SGMP will also contain contingency plans to be implemented during soil excavation if unanticipated hazardous materials (e.g., former underground storage tanks) are encountered. A Health and Safety Plan (HSP) shall be prepared by the project applicant and each contractor as part of the SGMP that will outline proper soil and groundwater handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. The project applicant shall submit the SGMP and HSP to the SCCDEH for approval.

The project applicant shall provide all documentation showing submittal of the SGMP and HSPs with the SCCDEH to the Director of Planning or Director's designee and the Municipal Compliance Officer in the Environmental Services Department prior to issuance of any grading permits.

The project proposes four levels of underground parking to a depth of 50 plus feet below ground surface. The depth to groundwater is estimated at 13 feet below ground surface. As such, dewatering activities will be required during construction of the underground parking area. The underground parking areas would be constructed to watertight and to exclude groundwater from underground parking area.

The project would construct two levels of underground parking beneath the proposed hotel. During construction of the subgrade parking garage, groundwater may be encountered during soil excavation. Any dewatering required for the project will be completed in accordance with the SMP prepared for the project site. The short-term discharge of water produced from construction dewatering to the sanitary sewer from the site would be acceptable, under permit by the City of San José, Environmental Service Department, Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Any proposed discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. Dewatering during pre-construction activities may create a significant hazard to the public or the environment, due to the possibility that contaminated groundwater could be encountered during grading activities. Consistent with the Downtown Strategy 2040 FEIR, implementation of the MM HAZ-2, as outlined below, will minimize any potential impacts associated with possible dewatering during construction.

#### **Mitigation Measures:**

**Impact HAZ-2:** Project implementation is expected to encounter groundwater during construction that would require dewatering as part of the construction of the underground parking garage. The groundwater is anticipated to contain hazardous materials and petroleum hydrocarbon contamination.

**MM HAZ-2:** The project applicant shall obtain a discharge permit from the appropriate regulatory agency to dispose of the water collected during the dewatering process. For short-term discharge (less than 1-year), a discharge permit shall be obtained from the City of San Jose's Watershed Protection Division and the water discharged to the sanitary



sewer. For long term discharge (greater than 1-year), the project applicant shall obtain a National Pollutant Discharge Elimination System (NPDES) permit from the California Regional Water Quality Control Board for discharge to the storm system. Both discharge permits require applications and pre-testing of the water to determine if the water meets the respective City or Regional Water Quality Control Board (RWQCB) pollutant discharge limits. The water shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Water that exceeds discharge limits shall be treated to reduce pollutant concentrations to acceptable levels prior to discharge. Based on the results of the analytical testing, the project applicant shall work with the RWQCB and the local wastewater treatment plant to determine appropriate disposal options.

A copy of the discharge permit or NPDES permit, whichever is applicable, shall be submitted to the Director of Planning or Director's designee prior to the issuance of any grading permit.

The site-specific mitigation measures identified above address the characterization of potential contamination impacts previously disclosed for similar sites by the Downtown Strategy 2040 FEIR. The implementation of these site-specific measures are consistent with the mitigation measures approved in the Downtown Strategy 2040 FEIR and with expected contamination types and levels in a developed urban area. The contamination addressed by these measures does not represent a substantially more severe effect of the project.

The project would not include uses that would require the regular transport of hazardous materials or emit hazardous emissions and does include a use with the potential to release hazardous materials into the environment. The project site is not a hazardous waste facility or hazardous waste cleanup site.<sup>13</sup> Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

*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? **Same Impact as Approved Project – Less Than Significant Impact.***

The project is not anticipated to result in a release of hazardous materials into the environment. The proposed facility would be expected to use limited hazardous materials and substances which would be limited to cleaners, paints, solvents; and fertilizers and pesticides for site landscaping. All materials and substances would be subject to applicable health and safety requirements. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

*c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? **Same Impact as Approved Project – Less Than Significant Impact.***

The closest school, Lowell Elementary School, is located approximately 0.07 mile north of the project site located at 596 South 2<sup>nd</sup> Street. While the project would be located within one-quarter mile of a school, the

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<sup>13</sup> California Department of Toxic Substances Control, Envirostor website. Available at <https://www.envirostor.dtsc.ca.gov/public/>. Accessed February 14, 2018.

mixed-use residential development would not be expected to emit or handle hazardous or acutely hazardous materials as explained in Responses 6.8(a) and 6.8(b). Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

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?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is listed on various databases due to the site's use as an automotive repair shop in 1985. As discussed in Appendix G-1, the Phase I ESA investigation did not reveal any indication of previous subsurface work, including soil and groundwater sampling performed at the project site. Mentions of a former UST located under the property was discussed with the site owner however, no record of this former UST was reported in any of the databases searched by Langan. However, one HREC was located on the project site.

Due to the regulatory closure, there is no longer an environmental concern for the site. However, if undocumented USTs, onsite septic systems, water wells and/or dry wells are encountered during grading or construction activities, they should be abandoned and/or removed in accordance with Santa Clara County requirements. Thus, a less than significant impact would occur and no mitigation is required.

In conforming to State and local laws, a visual inspection/pre-demolition survey and sampling, is required of the existing buildings on-site to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint. Given the age of the existing buildings on-site, demolition and renovation of the structures could expose construction workers or residents in the vicinity of the project site to harmful levels of ACMs or lead.

Consistent with the Downtown Strategy 2040 FEIR, implementation of the Standard Permit Condition as revised below, consistent with current standard practice, will reduce impacts from lead-based paint and ACMs to a less than significant level:

#### ***Standard Permit Conditions***

- In conformance with State and local laws, a visual inspection/pre-demolition survey and sampling shall be required of the existing buildings on-site to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with USEPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to any building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
  - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
  - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
  - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

The Downtown Strategy 2040 FEIR concluded that compliance with the regulatory requirements would result in a less than significant impact from asbestos-containing materials and lead. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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, would the project result in a safety hazard or excessive noise for people residing or working in the project area?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is not located within 2 miles of a public airport or private airstrip. The project site is located approximately 2.4 miles southeast of Mineta San José International Airport, the closest major airport. The project site is located approximately 3.4 miles west of the Reid Hillview Airport, the closest minor airport. The project site is not located within the “Airport Influence Area” defined by the Santa Clara County Airport Land Use Commission’s Comprehensive Land Use Plan (CLUP). According to Figures 3.8-1 and 3.8-2 in the San José General Plan EIR, the proposed project is not located within the San José International or Reid-Hill Airport Safety Zones. The project site would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impacts would occur and no mitigation is required.

Pursuant to federal regulations (FAR Part 77) and the Envision San José 2040 General Plan, the proposed 283-foot high building must be submitted to the FAA for airspace safety review and issued a “Determination of No Hazard” prior to City development permit approval, with any conditions set forth by the FAA incorporated into the City permit as required conditions of approval.

Consistent with the certified Downtown Strategy 2040 Final EIR, the project proposes to implement the following Standard Permit Conditions to reduce impacts to the Airport to a less than significant level:

### *Standard Permit Conditions*

- Prior to the issuance of a building permit, the permittee shall comply with the notification requirements of the FAR Part 77 and obtain a “Determination of No Hazard to Air Navigation” for the building’s high point from the Federal Aviation Administration (FAA).
- Prior to the issuance of a building permit, the permittee shall obtain a Permit Adjustment to incorporate all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., obstruction lights or construction-related notifications, as conditions of approval.
- Avigation easements shall be dedicated to the City of San José.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?* **Same Impact as Approved Project – Less Than Significant Impact.**

Implementation of the project would not impair or physically interfere with an adopted emergency response or evacuation plan. The City of San José Emergency Operations Plan (EOP) was prepared by the City describing the City’s response to emergency situations associated with natural disasters, technological incidents and nuclear defense operations. The EOP outlines the overall organizational and operational concepts in relation to response and recovery and includes the roles and responsibilities of the various committees and agencies during an emergency; and the activation and execution procedures of the emergency response system.

Compliance with the EOP, would ensure that implementation of the project would result in a less-than-significant impact with respect to interference with an adopted emergency response plan or emergency evacuation plan. No revisions to the ad EOP would be required as a result of the proposed project. Primary access to all major roads would be maintained during construction of the proposed project. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

g) *Expose people or structures, directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?* **Same Impact as Approved Project – Less Than Significant Impact.**

CAL FIRE identifies Fire Hazard Severity Zones (FHSZ) and designates State of Local Responsibility Areas within the state of California. New developments located in ‘Very High’ Fire Hazard Severity Zones are required to comply with exterior wildfire design and construction codes as well as vegetation clearance and other wildland fire safety practices for structures. The project is zoned as a “Non-Very High Fire Hazard Safety Zone” on the Very High Hazard Severity Zones in Local Responsibility Area (LRA) Map dated October 2008 and “LRA Incorporated” on the Fire Hazard Severity Zones in LRA Map dated October 2007.<sup>14</sup>

The City’s General Plan EIR contains development Wildland and Urban Fire policies specific to development within “Very High” hazard zones or near urban/wildlife interfaces. The proposed project is not located in a “Very High” zone and would not conflict with the wildland fire hazard policies

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<sup>14</sup> California Department of Forestry and Fire Protection, Fire Hazard Severity Zones Maps. Available at [http://www.fire.ca.gov/fire\\_prevention/fhsz\\_maps\\_santaclara](http://www.fire.ca.gov/fire_prevention/fhsz_maps_santaclara). Accessed February 8, 2018.

identified in the General Plan EIR. The project site is in a developed urban area and it is not a wildland interface area or directly adjacent to a wildland interface area; however, exposure of people or structures to a significant risk of loss, injury or death involving wildland fires could occur, though the risk, given the project location and corresponding FHSZ and General Plan hazard zones, is very low. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

#### **6.8.4 Conclusion**

Option 1 and Option 2 would not allow uses that transport, use, or dispose of hazardous materials in quantities that would result in a significant hazard to the public. Operation of the project would include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies would not pose a risk to the users on site or adjacent land uses. With implementation of mitigation measures MM HAZ-1 and MM HAZ-2 and adherence to standard permit conditions, the project would not result in significant hazards or hazardous materials impacts for either Option 1 and Option 2.

## 6.9 HYDROLOGY AND WATER QUALITY

Issues	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that that the project may impede sustainable groundwater management of the basin??	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.9.1 Existing Setting

The project is located in an urban area with connection to City water and sewer. The Flood Insurance Rate Map shows the project site to be in Zone D<sup>15</sup>, an area of minimal flood hazard. As discussed in the Phase I ESA prepared for the project, the site is relatively flat and at an elevation of approximately 101 feet above sea level. The closest waterway to the project site is Guadalupe River, which is located approximately 0.5-mile east of the project site<sup>16</sup>. Runoff from the site discharge to the Guadalupe River, approximately 2,000

feet west of the project site, and ultimately flows into the San Francisco Bay. Table 9: Pervious and Impervious Surfaces On-Site provides a comparison of the existing and proposed hardscape on the project site. Under both options, the amount of impervious and pervious surfaces would be the same post-construction.

**Table 9: Pervious and Impervious Surfaces On-Site**

Site Surface	Existing/Pre-Construction (SF)	%	Project/ Post-Construction (SF)	%	Difference (SF)
<b><i>Impervious</i></b>					
Building Footprint and Hardscape	27,056	100	26,569	98.2%	-487
<b><i>Pervious</i></b>					
Pervious Surfaces	0	0	486	1.8%	+487
<i>Total</i>	27,056		486		

Under existing conditions, the site is 100 percent impervious (27,056 square feet). The project would decrease the amount of impervious surfaces on-site by 487 square feet under both options.

### **6.9.2 Applicable Plans, Policies and Regulations**

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

#### ***Statewide Construction General Permit***

The SWRCB has implemented a NPDES Construction General Permit (CGP) for the state. Projects disturbing one acre or more of soil must obtain permit coverage under the CGP by filing a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the SWRCB prior to commencement of construction. The CGP, which became effective July 1, 2010, includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring. The project disturbs less than one acre of soil and, therefore, would not require permit coverage under the CGP.

#### ***City of San José Grading Ordinance***

All development projects, whether subject to the CGP or not, shall comply with the City of San José’s Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

### ***Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement***

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008]. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide stormwater permits with a regional permit for 77 Bay Area municipalities including the City of San José. Under the provisions of the MRP, redevelopment projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment.

The MRP allows certain types of smart growth, high density, and transit-oriented development to use alternative means of treatment depending on specific criteria. Qualifying projects may apply for reduction credits based on location and density criteria that allow non-LID treatment for a portion of the project's runoff, but only after the applicant demonstrates why LID is infeasible for the project. The LID reduction credits are intended to allow Smart Growth projects greater flexibility in meeting stormwater treatment requirements, based on the inherent environmental benefits of Smart Growth and potential technical challenges of implementing LID treatment exclusively on high-density sites in urban areas.

### ***Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post-Construction Hydromodification Management***

The MRP mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control, and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

The City of San José's Post-Construction Urban Runoff Management Policy (Council Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects. Development projects that create and/or replace one acre or more of impervious surface and are located in a sub-watershed or catchment that is less than 65 percent impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations. The project is 0.42 acres in size. Therefore, the project will not be required to comply with the hydromodification requirements of Council Policy 8-14.

### ***City of San José Envision San José 2040 General Plan***

The City's General Plan includes the following water quality policies applicable to the proposed project:

- Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.



- Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- Policy 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.
- Action 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.

### 6.9.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on hydrology and water quality do not substantially differ between the two scenarios.

- a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project must comply with the C.3 Provision “New Development and Redevelopment” of the Municipal Regional Stormwater Permit (MRP) (NPDES Permit No. CAS612008) which aims to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff from projects. The provision requires regulated projects to include LID practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site’s natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

Consistent with the Downtown Strategy 2040 FEIR, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include the following:

#### *Standard Permit Conditions*

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

The implementation of the above Standard Permit Conditions, as well as MM HAZ-2 regarding dewatering during construction would not result in new or more significant construction-related water quality impacts than disclosed in the Downtown Strategy 2040 FEIR.

### ***Post Construction Impacts***

The project site is currently 100 percent impervious and upon completion of the project the site would be 98.2 percent impervious under Option 1 and Option 2. This means the construction of the project would result in the addition of 487 square feet of impervious surface area under both options.

The City has developed policies that implement Provision C.3, consistent with the Municipal Regional Permit. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

The project qualifies for 100 percent LID treatment reduction credits under the Special Projects provisions for small infill development. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is ultimately subject to the City's review and approval. The project is a Category B- High Density Project. To qualify, the project must be located in the downtown core area, replace an impervious area greater than 0.5 acres, include no surface parking, have at least 85 percent of the entire site covered, and have a minimum density of 50 dwelling units per acre.

Stormwater treatment control measures for the site include flow through planters area on the 27<sup>th</sup> floor to the 3<sup>rd</sup> and 4<sup>th</sup> floors and media filters in the basement. Runoff from the site would be directed through a media filter system prior to entering the storm drainage system. The proposed treatment facility would be numerically sized and would have sufficient capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements.

The stormwater treatment measures shall be included in the Erosion Control Plan for the project. Adherence to these measures would ensure that the project conforms to Provision C.3 of the MRP and City Policies 6-29 and 8-14. Therefore, the water quality impact of the project would be less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is located within the Santa Clara Valley Groundwater Basin which spans from Diablo Mountains in the east, Santa Cruz Mountains in the west, and the San Francisco Bay in the north. The project does not propose groundwater use. The project would construct underground infiltration facilities which would detain and treat water prior to discharging into the public storm drain system.

However, the project site is not located within a natural or facility groundwater recharge area. Therefore, the project would not significantly impact local groundwater recharge. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

- i. *Result in substantial erosion or siltation on- or off-site;*

The project site does not include any streams or rivers, which could be altered by the proposed project. In addition, the proposed on-site flow through planters would limit the release of storm water from the site under both options; therefore, minimizing the potential for substantial erosion or siltation to occur on site or off site. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- ii. *Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?*

The project is located in an urban area and would not significantly alter the existing drainage patterns or significantly increase the amount of runoff water. Furthermore, the project would incorporate features intended to reduce stormwater runoff such as a bioretention area and flow through planters. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- iii. *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?*

The Downtown Strategy 2040 FEIR concluded that with the proposed changes in land use, buildout of the Downtown Strategy 2040 plan (e.g. development of parks and open spaces) would result in an overall net decrease in impermeable surfaces. The project is consistent with the Envision San José 2040 General Plan land use designation and would implement stormwater BMPs; therefore, the project would not require the construction or expansion of stormwater facilities beyond those that were evaluated in the Downtown Strategy 2040 FEIR.

The project must comply with the C.3 Provision of the MRP which provides specific design requirements for capacity including volume control design, flow hydraulic design, and combination flow and volume design. As required by the C.3 Provision of the MRP, a Storm Water Management

Plan (SWMP) with building plans would be reviewed and approved by the City of San José Public Works Department, Environmental Programs Division.

The project includes site design measures such as directing runoff from roofs, sidewalks, patios to landscaped areas and planting trees adjacent to impervious areas. The project will also minimize impervious surface area by reducing the existing impervious surfaces (currently site is 100 percent impervious), clustering structures, constructing parking under the building, and creating new pervious areas. Source control measures include beneficial landscaping, efficient use of water in irrigation systems, good housekeeping, labeling storm drains, connecting to the sanitary sewer with covered trash enclosures, interior parking structures, and covered loading docks.

Compliance with the C.3 Provision of the MRP would reduce possible impacts related to the stormwater drainage system to less than significant level. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

iv. *Impede or redirect flood flows?*

Per the Santa Clara Valley Habitat Plan, the project is not located within a stream setback zone and would not alter the course of a stream or river. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

d) *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is located in an unstudied area of undetermined flood hazard (Flood Zone D) according to the FEMA Flood Insurance Rate Map (FIRM) for Santa Clara County, California and Incorporated Areas. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. Therefore, the project site is not within a designated FEMA 100-year floodplain, and there are no City floodplain requirements for Zone D. The nearest flood hazard (1 percent annual chance flood hazard) is located approximately 650 feet southwest of the project site, on the other side of the I-280 highway. Therefore, the project site is not located within a 100-year flood hazard area.

In addition, the project is located outside of the tsunami inundation area mapped by the Association of Bay Area Governments.<sup>17</sup> Furthermore, the City's General Plan EIR concludes that the City of San José would avoid substantial effects from a possible seiche due to the location of salt restoration areas proximate to the San Francisco Bay. These salt ponds would minimize the effects of a potential seiche, limiting the impacts from a seiche within areas proposed for development within the Envision San José 2040 General Plan, including the project site. The project site is relatively flat so the potential for risk release of pollutants due to project inundation is unlikely. Therefore, due to the geographic location of the project, minimal impacts are likely to occur due to flood hazard, tsunami, or seiche zones. Thus, a less than significant impact would occur and no mitigation is required. No new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

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<sup>17</sup> Association of Bay Area Governments, Resilience Program data. Available at: <http://gis.abag.ca.gov/website/Hazards/?hlyr=apZones>. Accessed October 17, 2017.

- e) *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

Water quality impacts other than those described in response 6.9(a) above are not anticipated with implementation of the project. The project is under one acre and therefore is not required to obtain an NPDES General Permit for Construction Activities. The construction of the project would be required to comply with Santa Clara County's water quality guidelines and the City's Grading Ordinance and water quality guidelines to protect water quality through the use of erosion and sediment controls. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required

#### **6.9.4      Conclusion**

Implementation of General Plan policies and existing City policies and standard permit conditions would ensure that the project would not result in significant hydrology and water quality impacts for either Option 1 and Option 2.

## 6.10 LAND USE AND PLANNING

Issues	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 6.10.1 Existing Setting

The 0.42-acre project site is a surface parking lot, single-story brick building used as office with a parking lot to the south side and a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

### 6.10.2 Conclusion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as land use impacts do not substantially differ between the two scenarios.

The proposed development includes a 27-story tower with a maximum height of 283 feet. Properties located in the DC Zoning District are not subject to a minimum setback requirement. For properties covered under the Downtown Strategy 2040 FEIR, a significant shade and shadow impact is defined as:

- 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 César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park);

The Downtown Strategy 2040 FEIR concluded that development under the Downtown Plan would result in significant shading on public open space in the winter months. The public open space closest to the project site is the Parque De Los Pobladores, which is not one of the six major open space areas identified in the Downtown San José area. As proposed, the project would demolish existing building and construct a high density residential structure. The consistency of the proposed land use and planning with the City’s General Plan and other major development studies is evaluated in the SEIR for this project. No further analysis is provided in this Initial Study.

## 6.11 MINERAL RESOURCES

Issues	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.11.1 Existing Setting

Mineral resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation’s mercury over the past century. According to the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as containing mineral deposits which are of regional significance as a source of construction aggregate materials. The project is not located within the Communications Hill area.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

### 6.11.2 Applicable Plans, Policies and Regulations

#### *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, 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 State Mining and Geology Board (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.

### 6.11.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as mineral resource impacts do not substantially differ between the two scenarios.

- 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

The City's Envision San José 2040 General Plan identifies the area around Communications Hill as the only area in the City containing mineral deposits of regional significance by the State Mining and Geology Board under SMARA. The project site is located more than 2.7 miles north of Communication Hill. The project is not located in an area known to contain regionally significant mineral resources and would not result in the loss of the availability of a known mineral resource of regional value. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is not located in an area that has been identified by the City of San José as a locally important mineral resource recovery site. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

### 6.11.4 Conclusion

The Downtown Strategy 2040 FEIR found there were no significant impacts to mineral resources and therefore did not examine the issues in the EIR. Implementation of the project would not result in the loss of availability of a known mineral resource for both Option 1 and Option 2.



## 6.12 NOISE

Issues	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. Generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

An Acoustical Assessment for Option 1 was prepared by Michael Baker International (August 2018) to evaluate the potential short- and long-term noise impacts resulting from implementation of the project. The report is provided as Appendix H-1. An Acoustical Assessment for Option 2 was prepared by Kimley-Horn (June 2019) and is provided as Appendix H-2.

### 6.12.1 Existing Setting

The site is located within an urban area of San José approximately 0.8 miles south of Downtown San José and is bordered by residential uses to the south, north, east and west. The residences are a mix of single-family and multi-family. Interstate 280 runs approximately 86 feet south of the project site, South First Street to the west, East Reed Street to the North and an un-named Alley to the east. The existing project site has two surface parking lots, a single-story brick building used as office and a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

#### *Existing Noise Conditions*

In order to assess existing ambient noise levels in the project area, Michael Baker International conducted three noise measurements on January 10<sup>th</sup>, 2018 between 1:00 p.m. and 2:00 p.m. for ten-minute measurements. The daytime measurements ranged from 66.9 to 69.2 dBA L<sub>eq</sub> for the project site. Refer to Appendix H-1 for more information.

#### Traffic

The majority of the existing noise in the proposed project area is generated from vehicle sources along Interstate 280, South First Street/Market Street, and East Reed Street. Based on estimated average daily traffic volumes, the ambient noise levels for these roadways, at 100 feet from the roadway centerline, range from 56.8 to 66 dBA CNEL.

## Airport

According to the City's current and projected aircraft noise contours for the Norman Y. Mineta San José International Airport, the project site is, and will remain, exposed to an aircraft noise level of 60 to 65 dBA CNEL.

## Stationary

The project is located in an urbanized area which has many urban-related activities that are primary sources of noise: parking areas, people talking, truck deliveries, etc. These noises may represent a single-event noise occurrence, short-term, or long-term/continuous noise.

## ***Sensitive Receptors***

Certain land uses are particularly sensitive to noise, including schools, hospitals, rest homes, long-term medical and mental care facilities, and parks and recreation areas. Residential areas are also considered noise sensitive, especially during the nighttime hours. Existing sensitive receptors located in the project vicinity include residential uses, schools, places of worship, and parks. The nearest sensitive noise receptors are residential uses approximately 25 feet east of the project site and 80 feet west of the site.

## **6.12.2 Applicable Plans, Policies and Regulations**

### ***US Environmental Protection Agency***

The U.S. Environmental Protection Agency (EPA) offers guidelines for community noise exposure in the publication *Noise Effects Handbook – A Desk Reference to Health and Welfare Effects of Noise*. These guidelines consider occupational noise exposure as well as noise exposure in homes. The EPA recognizes an exterior noise level of 55 decibels day-night level (dB L<sub>dn</sub>) as a general goal to protect the public from hearing loss, activity interference, sleep disturbance, and annoyance. The EPA and other Federal agencies have adopted suggested land use compatibility guidelines that indicate that residential noise exposures of 55 to 65 dB L<sub>dn</sub> are acceptable. However, the EPA notes that these levels are not regulatory goals, but are levels defined by a negotiated scientific consensus, without concern for economic and technological feasibility or the needs and desires of any particular community.

### ***California Environmental Quality Act***

The State Office of Planning and Research Noise Element Guidelines include recommended exterior and interior noise level standards for local jurisdictions to identify and prevent the creation of incompatible land uses due to noise. The Noise Element Guidelines contain a land use compatibility table that describes the compatibility of various land uses with a range of environmental noise levels in terms of the CNEL. The guidelines also present adjustment factors that may be used to arrive at noise acceptability standards that reflect the noise control goals of the community, the particular community's sensitivity to noise, and the community's assessment of the relative importance of noise pollution.

### ***California Noise Insulation Standards***

The State of California establishes minimum noise insulation performance standards for hotels, motels, dormitories, apartment houses, and dwellings other than detached single-family dwellings as set forth in the 2007 California Building Code (Chapter 12, Section 1207.11.2). The noise limit is a maximum interior noise level of 45 dBA DNL. Where exterior noise levels exceed 60 dBA DNL, a report must be submitted

with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit. The Envision San José 2040 General Plan facilitates the implementation of the Building Code noise insulation standards.

### *City of San José General Plan*

The Noise Element of the Envision San José 2040 General Plan, adopted November 1, 2011, establishes noise standards for planning purposes need to examine outdoor and indoor noise levels acceptable for different uses. The standards relate to existing conditions in the City so that they are realistically enforceable and consistent with other Envision San José 2040 General Plan policies. The Noise Element seeks to limit the impacts of noise on residents and employees in two ways. The Noise Element contains standards to determine the suitability of new land uses depending upon the extent of noise exposure in the area. The Noise Element's policies limit the extent of new noise sources that proposed development can add to existing noise levels in the surrounding area and through implementation of the City's Noise Ordinance, which limits what is commonly described as "nuisance noise."

The following lists applicable noise goals and targets that apply to the project obtained from the Envision San José 2040 General Plan:

Goal EC-1:        **Community Noise Levels and Land Use Compatibility.** Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

Policy EC-1.1:    Locate new development in areas where noise Levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

#### Interior Noise Levels

The City's standard for interior noise Levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA Day/Night Average Sound Level (DNL). Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision San José 2040 General Plan traffic volumes to ensure land use compatibility and consistency over the life of this plan.

#### Exterior Noise Levels

The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1 in the General Plan, Table 10 below). The acceptable exterior noise level objective is established for the City, except in the environs of the Mineta San José International Airport and the Downtown, as described below:

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use

noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standards for noise from sources other than aircraft and elevated roadway segments.

Table 10: Land Use Compatibility Guidelines for Community Noise in San José, provides the range of acceptable noise levels for various land uses in the City, as established by the Envision 2040 General Plan.

**Table 10: Land Use Compatibility Guidelines for Community Noise in San José**

Land Use Category	Exterior Noise Exposure (DNL in dBA)		
	Normally Acceptable	Conditionally Acceptable	Clearly Unacceptable
Residential, Hotels and Motels, Hospitals and Residential Care <sup>1</sup>	50 – 60	60 – 75	75 – 85
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	50 – 65	65 – 80	80 – 85
Schools, Libraries, Museums, Meeting Halls, Churches	50 – 60	60 – 75	75 – 85
Office Buildings, Business Commercial, and Professional Offices	50 – 70	70 – 80	80 – 85
Sports Arena, Outdoor Spectator Sports	50 – 70	70 – 80	80 – 85
Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	NA	50 – 70	70 – 85

<sup>1</sup> Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

NA: Not Applicable; Ldn/DNL: average day/night sound level.

Notes:

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

Conditionally Acceptable - Specific land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.

Clearly Unacceptable - New construction or development should not be undertaken.

Source: City of San José, *Envision San José 2040 General Plan Noise and Vibration*, amended November 1, 2011.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.

Policy EC-1.7: Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a

project located within 500 feet of residential uses or 200 feet of commercial or office uses would

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.
- For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

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

Policy EC-1.1:1 Require safe and compatible land uses within the Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.

Policy EC-1.14: Require acoustical analyses for proposed sensitive land uses in areas with exterior noise levels exceeding the City's noise and land use compatibility standards to base noise attenuation techniques on expected Envision San José 2040 General Plan traffic volumes to ensure land use compatibility and General Plan consistency.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

### ***City of San José Municipal Code***

Section 20.100.450, Hours of Construction Within 500 Feet of a Residential Unit, of the San José Municipal Code (Municipal Code), specifies the following standard exceptions to the provisions of Section 20.100.450.

- A. Unless otherwise expressly allowed in a Development Permit or other planning approval, no applicant or agent of an applicant shall suffer or allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

### **6.12.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as noise impacts do not substantially differ between the two scenarios.

- 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

### ***Temporary Noise Impacts***

Construction of the project would occur over approximately 26 months under both Option 1 and Option 2, as both options would have similar building footprint and designs, with the exception of some minor differences in the ground floor layout. Therefore demolition, grading, paving, building construction, and architectural coating for both options would be similar. Groundborne noise and other types of construction-related noise impacts would typically occur during excavation activities of the grading phase. This phase of construction has the potential to create the highest levels of noise under both options. Other primary sources of acoustical disturbance would be due to random incidents, which would last less than one minute (such as dropping large pieces of equipment or the hydraulic movement of machinery lifts).

The potential for construction-related noise to affect nearby residential receptors would depend on the location and proximity of construction activities to these receptors. Construction would occur throughout the project site and would not be concentrated or confined in the area directly adjacent to sensitive receptors under both options. Therefore, construction noise would be acoustically dispersed throughout the project site and not concentrated in one area near adjacent sensitive uses.

Given the sporadic and variable nature of project construction and the implementation of time limits specified in the Municipal Code, noise impacts would be reduced to a less than significant level. Municipal Code Section 20.100.450 limits construction to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, for projects within 500 feet of residential unless permission is granted with a development permit or other planning approval. Furthermore, General Plan Policy EC-1.7 considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve noise generating activities (e.g., excavation, grading, demolition, and building) for more than 12 months.

The project is proposing construction on Saturdays between 7:00 a.m. and 7:00 p.m. as well as one 24-hour construction day during the foundation concrete pour under both options. Furthermore, the project anticipates a 26 month construction period under both options. Therefore, per the requirements of General Plan Policy EC-1.7 and consistent with the Downtown Strategy 2040 FEIR, Mitigation Measure NOI-1 would be implemented to require a construction noise logistics plan that would incorporate best management practices during construction.

### **Mitigation Measure**

**Impact NOI-1:** Construction of the proposed project would last more than 12 months and would result in potential construction noise impacts in the vicinity of sensitive residential land uses.

**MM NOI-1:** The project applicant shall retain a qualified professional to prepare a construction noise logistics plan during all phases of construction on the project site. The plan shall specify hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who shall respond to neighborhood complaints. All measures from this plan shall be included on all approved grading and building permit plans. Measures to be included in the plan shall include, but are not limited to, the following:

- Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists;
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;
- If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing;
- Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule

The project applicant shall ensure that all construction crews shall adhere to the Construction Noise Logistics Plan to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity. The construction noise logistics plan shall be reviewed and approved by the Director of Planning or Director's designee prior to issuance of any grading permit and/or building permits.

Implementation of Mitigation Measure NOI-1 would further minimize impacts from construction noise as it requires best practices such as placing stationary noise sources away from receptors, use of temporary barriers, requiring construction equipment to be equipped with properly operating and maintained mufflers and other state required noise attenuation devices. Thus, with mitigation, a less than significant noise impact would result from construction activities.

Consistent with the certified Downtown Strategy 2040 Final EIR, General Plan policies (specifically policy EC-1.7), and Municipal Code, the project proposes to implement the following mitigation measure to reduce impacts from noise to a less than significant level.

### ***Long-Term Noise Impacts***

Future development generated by the project would result in additional traffic on adjacent roadways, thereby increasing vehicular noise in the vicinity of existing and proposed land uses. Based on the Traffic Operations Analysis, the project would result in approximately 929 net daily trips under Option 1, or 1,412 daily trips under Option 2. The Existing without Project scenario should range from approximately 56.4 to 65.6 dBA DNL and the Existing Plus Project scenario for Option 1 had noise levels ranging from 56.5 to 65.8 dBA DNL. Option 1 of the Project would result in maximum increase of 0.5 dBA DNL occurring along East Reed Street. The Existing Plus Project scenario for Option 2 should range approximately from 57.5 to 65.5 dBA DNL. Option 2 would result in a maximum 1.2 dBA DNL increase along East Reed Street.

Traffic noise levels would exceed the City's "Normally Acceptable" limit of 60 dBA DNL for residential land uses; however, the noise level increase would not be perceivable (i.e., increase would be less than 3 dBA DNL) consistent with General Plan Policy EC-1.2. Therefore, the project would not significantly increase noise levels along the roadway segments analyzed, and a less than significant impact would occur.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

b) *Generation of excessive groundborne vibration or groundborne noise levels? New Less Than Significant Impact with Mitigation Incorporated.*

### ***Short-Term Construction Impacts***

Project construction can generate varying degrees of groundborne vibration, depending on the construction procedure and the construction equipment used. The effects on buildings located adjacent to the construction site often varies depending on soil type, ground strata, and construction characteristics of the building. The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels. Groundborne vibrations from construction activities rarely reach levels that damage structures.

Based on General Plan Policy EC-2.3, there is a vibration limit of 0.20 inch-per-second (in/sec) peak particle velocity (PPV) for buildings of normal conventional construction and a vibration limit of 0.08 in/sec PPV for sensitive historic structures. According to the Acoustical Assessment prepared for the project, the type of heavy construction equipment operation that would most likely occur would range from 0.003 to 0.089 in/sec PPV at 25 feet from the source of activity. Therefore, the residences located 25 feet east of the project would not be exposed to vibration levels exceeding the City's significance threshold for vibration.

Additionally, historic structures are located in the project area at 601 South First Street (75 feet to the west), 623 South Second Street (60 feet to the east), and 630 South First Street (adjacent to the south). As the closest historic structure is located adjacent to the project's southern property line, vibration levels could exceed the City's 0.08 in/sec PPV standard for historic structures.

The preparation of a construction vibration monitoring plan to monitor equipment vibrations during construction is required. Therefore, MM NOI-2.1 and MM NOI-2.2 would be required to reduce vibration impacts to a less than significant level. The mitigation measure includes a comparison of pre- and



postconstruction surveys of the sensitive buildings to assess if any structural damage was caused as a result of construction vibration.

### **Mitigation Measure**

**Impact NOI-2:** Adjacent buildings including historical structures could be exposed to groundborne vibration in excess of City standards during project construction.

**MM NOI-2.1:** The project applicant shall prepare and implement a Construction Vibration Monitoring Plan to document conditions prior to, during, and after vibration generating construction activities. The Plan shall address vibration impacts to sensitive historic structures of 0.08 in/sec PPV and all normal conventional construction structures of 0.20 in/sec PPV. All tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The Construction Vibration Monitoring Plan shall include, but is not limited to, the following tasks:

- Identification of the sensitivity of on- and off-site structures to groundborne vibration. Vibration limits shall be applied to all vibration sensitive structures located on or within 50 feet of the project site.
- Performance of a photo survey, elevation survey, and crack monitoring survey for each structure within 50 feet of construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction and after project completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls, and other structural elements in the interior and exterior of said structures.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approach the limits.
- At a minimum, vibration monitoring shall be conducted during pavement removal, building demolition, and drilling activities. Monitoring results may indicate the need for more or less intensive measurements.
- If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

The Construction Vibration Monitoring Plan shall be reviewed and approved by the Director of Planning or Director's designee prior to issuance of any grading, demolition, or building permit (whichever occurs first).

**MM NOI-2.2:** The project applicant shall submit a report summarizing the result of the vibration monitoring process during all demolition and construction phases to the Director of Planning or Director's designee no later than a week after substantial completion of each phase identified in the project schedule of the Construction Vibration Monitoring Plan. The report shall include, but is not limited to, a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.

Consistent with Downtown Strategy 2040 FEIR, with implementation of Mitigation Measures NOI-2.1 and NOI-2.2, vibration impacts associated with construction equipment used for the project would be less than significant.

### ***Long-Term Operational Impacts***

The project is a mixed-use residential building with commercial space and associated parking and landscaping. Under both options, operations of the project would not generate groundborne vibration that could be felt by surrounding uses. The project does not involve heavy manufacturing drilling or other subterranean activities, railroads, or substantial heavy truck operations, and therefore would not result in vibration impacts at surrounding uses. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

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?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site is not located within 2 miles of a public airport or private airstrip. The project site is located approximately 2.4 miles southeast of Mineta San José International Airport, the closest major airport. The project site is located approximately 3.4 miles west of the Reid Hillview Airport, the closest minor airport. According to the General Plan EIR, the project site is located within the 2027 60 dB CNEL airport noise contour and is not within the City's projected aircraft noise impact area. As such, aircraft noise levels would not exceed the City's 60 dBA DNL noise standard for residential uses at the project site. Therefore, the project would not expose people residing or working in the area to excessive noise levels. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

### **6.12.4 Existing Noise Conditions Affecting the Project not Required Under CEQA**

The California Supreme Court in a December 2015 opinion (BIA v. BAAQMD) confirmed that CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g., noise) affecting a proposed project, which are addressed below. The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Specifically, General Policy EC-1.1 has a 45 dBA DNL noise standard for interior noise levels in residences from the existing environment. Therefore, the following discussion is provided for informational purposes.

Future residents of the project would be exposed to traffic noise along South 1<sup>st</sup> Street/Market Street, East Reed Street, and I-280. Interior noise levels would be a maximum of 51 dBA DNL, assuming all windows and doors are closed thereby attenuating the exterior noise levels by 24 dBA. This noise level would exceed the City's 45 dBA DNL interior noise standard. General Plan Policy EC-1.1, discussed above, requires the use of noise attenuation techniques to reduce interior noise levels below the 45 dBA DNL standard. Therefore, the project would require all windows to have a minimum Sound Transmission Class (STC) rating of 37 to ensure interior noise levels are below the City's 45 dBA DNL interior requirement. Additionally, the project would include mechanical ventilation to ensure that windows can be closed to achieve the necessary sound attenuation.

### ***Standard Permit Conditions***

Install sound-rated windows and entry doors with a minimum Sound Transmission Class (STC) rating of 37 or equivalent at all residential dwelling units or co-living units on the project site.

### **6.12.5 Conclusion**

With implementation of the General Plan and Municipal Code policies, as well as adherence to MM NOI-1, MM NOI-2.1, and MM NOI-2.2, the project would not result in a significant noise or vibration impact for either Option 1 or Option 2.

## 6.13 POPULATION AND HOUSING

Issues	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.13.1 Existing Setting

The population of the City of San José is approximately 1,042,094 persons as of January 1, 2016.<sup>18</sup> According to the General Plan EIR the City estimates approximately 138,442 additional households in San José by 2035 to a total of 429,350 households. The project proposes an additional 290 residential units. The unemployment rate for the City of San José as of August 2017 was 4.3 percent.<sup>19</sup> To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2035 and 382,000 new jobs within San José and 10,360 new dwelling units and 48,500 jobs in the Envision San José 2040 General Plan Land Use designation area.

### 6.13.2 Applicable Plans, Policies and Regulations

The Downtown Strategy 2040 FEIR found there were no significant impacts to population, employment, and housing and therefore did not examine the issues in the EIR.

#### *California Government Code Sections 65580–65589*

California Government Code Sections 65580–65589.8 include provisions related to the requirements for housing elements of local government general plans. Among these requirements, some of the necessary elements include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goals, the statute calls for local jurisdictions to plan for, and allow the construction of, a share of the region’s projected housing needs.

<sup>18</sup> City of San José website. Available at: <http://www.sanjoseca.gov/index.aspx?NID=2044>. Accessed October 17, 2017.

<sup>19</sup> State of California Employment Development Department. Available at: <http://www.labormarketinfo.edd.ca.gov/data/labor-force-and-unemployment-for-cities-and-census-areas.html>, accessed October 17, 2017.

## ***Regional Transportation Plan/ Sustainable Community Strategy***

The Regional Transportation Plan (RTP)/ Sustainable Community Strategy (SCS) for the Bay Area region was adopted on July 18, 2013. This regional plan sets integrated development, housing and transportation goals with the aim of reducing greenhouse gas (GHG) emissions.

### ***Affordable Housing Programs***

The City of San José has demonstrated a commitment to ensuring that affordable housing is available to moderate, low, and very-low income households by adopting an Inclusionary Housing Ordinance (IHO) and a Housing Impact Fee (AHIF) resolution (collectively, the Affordable Housing Programs). The Inclusionary Ordinance requires that 15 percent of all new market-rate developments of 20 or more units include an affordable housing component. The Housing Impact Fee requires that developers of new market-rate rental housing pay \$17-per-square foot to fund additional affordable housing projects in the City.

### ***Municipal Code***

The City's Municipal Code, Chapter 5.08, Inclusionary Housing Requirements, provides specific requirements for on-site inclusionary housing for new residential developments. This requires that 15 percent of the total dwelling units in the residential development shall be made available for purchase at an affordable housing cost to those households earning no more than 110 percent of the area median income. These units cannot be sold to those earning more than 120 percent of the area median income. Rental developments are required to provide 9 percent of the total dwelling units in the residential development at an affordable rental housing cost to moderate income households, and 6 percent of the total dwelling units in the residential development shall be made available for rent at an affordable housing cost to very low income households.

### ***City of San José Envision San José 2040 General Plan***

The City's Envision San José 2040 General Plan includes the following housing policies applicable to the project:

- Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.
- Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.

### **6.13.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as population and housing impacts do not substantially differ between the two scenarios.

- 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)?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project proposes a mixed-use residential building on a site currently used as office and parking lots. The California Department of Finance estimates 3.2 residents per household in San José.<sup>20</sup> Under Option 1, 290 dwelling units are proposed, which would result in an increase of approximately 928 residents. Under Option 2, 850 bedrooms (equivalent of 607 dwelling units)<sup>21</sup> are proposed, which would result in more new residents (approximately 1,275 residents) and higher population impacts.

The project is located within the downtown growth area. The Downtown land use designation aims to integrate new high density housing as well as a taller, more urban development while retaining and expanding upon the existing mix of community-serving commercial uses and the pedestrian orientation of much of the area. The retail use proposed as a part of Option 1 would create 16 additional employment opportunities and under Option 2 would create 20 additional employment opportunities within the City.<sup>22</sup> Furthermore, as a part of the mixed-use, transit adjacent and pedestrian oriented development, these employment opportunities would be easily accessible via transit, furthering the City's General Plan goals and the RTP/SCS goals to support a healthy community, reduce traffic congestion and decrease greenhouse gas emissions and energy consumption.

To address the continued and anticipated demand for housing in San José and Silicon Valley, the Downtown Strategy 2040 FEIR, consistent with the General Plan, will increase in residential capacity to 14,360 units would be achieved by transferring residential units. The 290 dwelling units proposed under Option 1 and the 850 bedrooms proposed under Option 2 would contribute to a portion of the new housing included in the General Plan growth capacity. Although the project would result in an increase of new rental residential units, it would provide a mix of affordable units. Thus, the project would induce growth in the project vicinity, however, the additional housing units would be in accordance with the population and housing growth planned for in the General Plan and Downtown Strategy 2040, and therefore, would result in no new or more significant impacts than those previously analyzed and no mitigation is required.

- b) *Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project site currently includes two buildings and adjacent surface parking lots. There is an existing multi-family housing structure on the site, with four residential units. There are approximately 11 residents renting units in the existing two-story house. Implementation of project would result in the removal of the four residential units; however, removal of the residence would not displace a substantial number of people such that construction of replacement housing would be required. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no mitigation is required.

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<sup>20</sup> California Department of Finance Table 2: E-5 City/County Population and Housing Estimates. January 1, 2017. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>. Accessed October 17, 2017.

<sup>21</sup> Consistent with other co-living projects, the City of San José assumes 1.5 people per bedroom to calculate the anticipated number of residents. That value (1,275 residents) is divided by the average number of people per household in the Downtown, which is 2.1 (per Census data) to calculate the number of units towards the capacity of the Downtown Strategy 2040 FEIR. This would result in 607 units equivalent for this project.

<sup>22</sup> The City calculates one job per 300 square feet of retail space. (City of San José Envision 2040, 2011)

#### **6.13.4 Conclusion**

The development of the project would increase the housing available in the project area, but would not induce substantial population growth under either Option 1 or Option 2.

## 6.14 PUBLIC SERVICES

Issues	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. 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:					
i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.14.1 Existing Setting

**Fire Protection Services:** San José Fire Department. The City has 33 fire stations. The four fire stations within approximately 1.5 miles or less from the project site: Station No. 3, located at 98 Martha Street, is about 0.4 miles south of the project site; Station No. 30, at 454 Auzerais Ave, is about 0.7 miles west of the project site; Station No. 1, at 225 North Market Street, is about 1 mile northwest of the project site; and Station No. 8, located at 802 East Santa Clara Street, about 1.3 miles northeast of the project site<sup>23</sup>.

**Police Protection:** Police protection services are provided to the project site by the San José Police Department. Headquarters are located at 201 West Mission Street, approximately 2 miles northwest of the project site.

**Schools:** The project is located within the San José Unified School District (SJUSD). Students in the project area would attend Gardner Elementary School, Hoover Middle School, and Lincoln High School.

**Other Public Facilities, Libraries:** The San José Public Library System consists of one main library and 23 branch libraries. The nearest libraries to the project site are the Dr. Martin Luther King, Jr. Library, located at 150 East San Fernando Street approximately 0.7 miles north of the project site and Biblioteca Latinoamericana Branch Library, located at 921 South First Street approximately 0.3 miles south of the project site.<sup>24</sup>

<sup>23</sup>San José Fire Department. [http://www.yourfiredepartment.org/SJS/Fire\\_Stations.html](http://www.yourfiredepartment.org/SJS/Fire_Stations.html). Accessed October 17, 2017.

<sup>24</sup>City of San José Public Library. <https://www.sjpl.org/locations-map-search>. Accessed October 17, 2017.



## **6.14.2 Applicable Plans, Policies and Regulations**

### **Police Services**

All law enforcement agencies within California are organized and operate in accordance with the applicable provisions of the California Penal Code. This code sets forth the authority, rules of conduct, and training for police officers.

### **Fire Protection**

The California Fire Code contains regulations relating to construction and maintenance of buildings and the use of premises. Fire hazards are addressed mainly through the application of the State Fire Code that addresses access, including roads, and vegetation removal in high fire hazard areas, fire hydrants, automatic sprinkler systems, fire alarm systems, fire and explosion hazards safety, and many other general and specialized fire safety requirements for new and existing buildings and premises.

### ***California Occupational Safety and Health Administration***

In accordance with California Code of Regulations Title 8 Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Equipment" the California Occupational Safety and Health Administration (Cal/OSHA) has established minimum standards for fire suppression and emergency medical services. The standards include, but are not limited to, guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all fire-fighting and emergency medical equipment.

### ***California Health and Safety Code***

State fire regulations are set forth in Sections 13000 et seq. of the California Health and Safety Code. This includes regulations for building standards (as also set forth in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training.

### **Schools**

#### ***Senate Bill 50***

SB 50 (1998), which is funded by Proposition 1A, limits the power of cities and counties to require mitigation of developers as a condition of approving new development and provides instead for a standardized fee. SB 50 generally provides for a 50/50 state and local school facilities match. SB 50 also provides for three levels of statutory impact fees. The application level depends on whether state funding is available; whether the school district is eligible for state funding; and whether the school district meets certain additional criteria involving bonding capacity, year-round schools, and the percentage of moveable classrooms in use.

California Government Code sections 65995-65998 sets forth provisions to implement SB 50. Specifically, in accordance with Section 65995(h), the payment of statutory fees is "deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization...on the provision of adequate school facilities." The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Pursuant to Government Code section 65995(i), “A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.”

California Education Code Section 17620(a)(1) states that the governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities.

***California Government Code, Section 65995(b), and Education Code Section 17620***

SB 50 amended California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage assessment for development to be increased every two years, according to inflation adjustments. On January 27, 2016, the State Allocation Board (SAB) approved increasing the allowable amount of statutory school facilities fees (Level I School Fees) from \$3.36 to \$3.39 per square foot of assessable space for residential development of 500 square feet or more, and from \$0.54 to \$0.55 per square foot of chargeable covered and enclosed space for commercial/industrial development (State Allocation Board, 2016). School districts may levy high fees if they apply to the SAB and meet certain conditions.

***City of San José Envision San José 2040 General Plan***

The City’s Envision San José 2040 General Plan includes the following public services policies applicable to the project:

- Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
- Policy ES-2.2: Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
- Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:
  1. For police protection, use as a goal 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, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

- Policy 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.
- Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
- Policy 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.
- Policy PR-2.6: Locate all new residential development 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 shall include one or more of these elements in its project design.

### 6.14.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on public services do not substantially differ between the two scenarios.

- 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 any of the public services:*
- i) ***Fire protection? Same Impact as Approved Project – Less Than Significant Impact.***

The project site is located within the service area of the San José Fire Department (SJFD). SJFD had 16,971 fire and other incidents in the City in 2017. The average travel time in 2017 was eight minutes and 16 seconds for fire and other and a bit over six minutes for medical.<sup>25</sup> Consistent with Downtown Strategy 2040 FEIR, this project would contribute to increased demand for fire protection services. Although the SJFD is not currently meeting response time objectives, it is anticipated that the planned construction and/or relocation of stations as described in the 2040 General Plan, will improve response times. Furthermore, traffic signal preemption will continue to be implemented as necessary to provide adequate response times within and surrounding the Downtown area (GP Policy ES-3.13).

The proposed buildings will be constructed to current fire and building code standards, including adequate emergency vehicle access and features that would reduce potential fire hazards. According to current SJFD protocols, fires in structures that are four stories or taller in height will require responses from more than one fire station. Even though development of the project site as proposed by may incrementally increase the demand for fire protection services, it would not increase to a substantial level considering the site's urbanized location. Furthermore, the potential growth resulting from the project is in conformance with anticipated housing growth planned for

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<sup>25</sup> City of San José, San José Fire Department City-Wide Response Metrics. January 25, 2018.

in the General Plan EIR, as well as the associated fire protection services that could result from build-out of the project.

Implementation of 2040 General Plan policies would help ensure that the SJFD meets and maintains the City's response time objectives over the long-term. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and would result in a less than significant impact.

*ii) Police protection? Same Impact as Approved Project – Less Than Significant Impact.*

Police protection services would be provided by the City of San José Police Department (SJPD). Although a new mixed-use residential building would be constructed on the project site, the project would be located in an urbanized area and would not result in a substantial increase in demand on police services. It is not anticipated to increase response times to the project site or vicinity. The project does not propose or require new or physically altered police protection facilities. The project would be constructed in accordance with current building codes and City policies to avoid unsafe building conditions and promote public safety, consistent with General Plan Policy ES-3.9. Furthermore, the potential growth resulting from the project is in conformance with anticipated housing growth planned for in the General Plan EIR, as well as the associated police protection services that could result from build-out of the project. Therefore, impacts would be less than significant and no mitigation is required.

Implementation of 2040 General Plan policies would help ensure that the SJPD meets and maintains the City's response time objectives over the long-term. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and would result in a less than significant impact.

*iii) Schools? Same Impact as Approved Project – Less Than Significant Impact.*

The project site is located within the boundaries of the San José Unified School District (SJUSD). Option 1 proposes the construction of 290 dwelling units which could lead to an incremental increase in demand for services within the San José Unified School District. SJUSD student generation rates for multi-family residential development are approximately 0.272 K-12 students per unit. Based on this student generation rate, the proposed 290 residential units under Option 1 would generate an estimated 79 new students. Under Option 2, the proposed 850 bedrooms (equivalent of 607 units) would generate an estimated 165 new students. The project is part of the planned growth in the City and will not increase students in the SJUSD beyond what was anticipated in the General Plan and Downtown Strategy 2040 FEIR.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. SJUSD collects impact fees from new developments under the provisions of SB 50. Payment of the applicable impact fees by the project applicant, and ongoing revenues that would come from property taxes, sales taxes, and other revenues generated by the project, would fund improvements associated with school services. Under the provisions of SB 50, a project's impacts on school facilities are fully mitigated via the payment of the requisite new school construction fees established pursuant to Government Code Section 65995. While the project would increase the number of school children attending public schools in the project area, it would be consistent with the increases identified in the General Plan and Downtown Strategy

2040 FEIR, and would mitigate its impact through compliance with state law regarding school impacts.

Furthermore, as a mixed-use, high density development, the project would comply with the population and housing growth planned for in the General Plan and Downtown Strategy 2040 and analyzed in the Downtown Strategy 2040 FEIR and therefore, no new or more significant impacts than those previously analyzed would occur and would result in a less than significant impact.

*iv) Other public facilities? **Same Impact as Approved Project – Less Than Significant Impact.***

Under Option 1, the project proposes the construction of 290 dwelling units and under Option 2, the project proposed 850 bedrooms which could lead to a demand on other public facilities such as libraries and community centers within the City. However, the project would be constructed within the Downtown Strategy 2040 area and would conform to the prescribed land use and zoning designations. The Envision San José 2040 General Plan EIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. Furthermore, the project under Downtown Strategy 2040 would contribute to citywide demand for library services. Given that the existing and planned library facilities would adequately serve planned growth in the city, the proposed project would not result in a new or more significant impacts than those previously analyzed in Downtown Strategy 2040 FEIR and would result in a less than significant impact.

#### **6.14.4 Conclusion**

Implementation of the project is not anticipated to result in a substantial increase in demand on police and fire protection services in the project area. The proposed development is consistent with the planned growth in the General Plan and as analyzed in the Downtown Strategy 2040 FEIR. The project would not result in the need to construct new police or fire facilities. Implementation of General Plan policies, City ordinances, and Government Codes would ensure that development under the proposed project would not result in significant impacts to public services for either Option 1 or Option 2.

## 6.15 RECREATION

Issues	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.15.1 Existing Setting

The City of San José manages a total of 3,435 acres of regional and neighborhood/community serving parkland. The project site is located 150 feet southeast of Parque De Los Pobladores, a 0.2 acre triangular-shaped park between South Market Street and South 1<sup>st</sup> Street. Guadalupe River Park and Gardens is located 0.4 miles west of the project site and Plaza De Cesar Chavez is approximately 0.4 miles north of the site. The closest Regional Park is Lake Cunningham Regional Park located 4.5-miles east of the project site.

### 6.15.2 Applicable Plans, Policies and Regulations

#### *The Quimby Act*

The Quimby Act (California Government Code §66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

#### *Parkland Dedication Ordinance and Park Impact Ordinance*

The City of San José enacted the Parkland Dedication Ordinance (PDO)<sup>26</sup> (*Municipal Code Chapter 19.38*) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)<sup>27</sup>, which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, and/or pay a parkland fee in lieu of land dedication for neighborhood and community parks under the PDO and PIO. Pursuant to these ordinances a residential project’s parkland obligation under the PDO and PIO is

<sup>26</sup> City of San José Municipal Code Title 19.38

<sup>27</sup> City of San José Municipal Code Title 14.25

equivalent in value or property to three acres for every 1,000 new residents added by the housing development, pay an in-lieu fee, construct new park facilities, or a provide combination of these.

### *City of San José Envision San José 2040 General Plan*

The City's Envision San José 2040 General Plan includes the following public services policies applicable to the project:

- Policy 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.
- Policy 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.
- Policy PR-1.3: Provide 500 square-feet per 1,000 population of community center space.
- Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
- Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

### **6.15.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as recreation impacts do not substantially differ between the two scenarios.

- 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?*  
**Same Impact as Approved Project – Less Than Significant Impact.**

There are several City, County and regional parks are located within a few miles of the project site such as Parque De Los Pobladores, Guadalupe River Park and Gardens, and Plaza De Cesar Chavez. Additional nearby recreation facilities located within the project vicinity include Montgomery Theater and the Tech Museum of Innovation, which are located approximately 0.4 miles northwest of the project site, and the Center for the Performing Arts about 0.5 miles northwest of the site. Washington Community Center is located 0.3 miles south of the project site and Happy Hollow Park and Zoo approximately 1 mile east of the project site.<sup>28</sup> Although the project could increase the use of these recreational facilities, the increased use was accounted for in the General Plan and Downtown Strategy 2040 FEIR. Therefore, no new or more significant impacts than those previously analyzed would occur and no mitigation is required.

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<sup>28</sup> City of San José. Facilities. <https://www.sanjoseca.gov/Facilities>. Accessed October 16, 2017

- 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?* **Same Impact as Approved Project – Less Than Significant Impact.**

The project includes shared areas for passive recreation including a common terrace and pool. The residential portion of Option 1 (290 units) and Option 2 (850 bedrooms) would require dedication of parkland or payment of park impact fees in order to comply with the PIO and/or PDO. The PIO/PDO obligation can be met through the dedication of land; payment of a park impact in-lieu fee, credit for providing new recreational facilities (such as a turnkey public park), by improving existing City recreational facilities, or providing a combination of these solutions. An executed parkland agreement that outlines how a project will comply with the PIO/PDO is required prior to the issuance of a Final subdivision map. Payment of park impact in-lieu fees must be demonstrated prior to the issuance of Building Permits.

While the increased population would result in increased use of existing and planned parks, trails, and community centers within the City, these facilities would be improved through application of PIO/PDO money; therefore, the project would not result in substantial physical deterioration of these facilities. The project will not result in any new or more significant impacts than those previously analyzed and no mitigation is required.

#### **6.15.4 Conclusion**

With implementation of General Plan policies and the City's PIO/PDO measures, the project would not result in significant impacts to recreational facilities under either Option 1 or Option 2 in the City of San José.



## 6.16 TRANSPORTATION

Issues	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, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A Traffic Operational Analysis (TOA) & Supplemental Traffic Analysis Memorandum was prepared by Kimley-Horn and Associates (June 2019) to evaluate transportation impacts and site circulation of the proposed project. The report and technical memorandum is provided as Appendix I.

### 6.16.1 Existing Setting

The site is currently two parking lots and two buildings. Access to the project would be by a single right-in right-out only garage driveway on South First Street and an alleyway east of the project site. The east alley also provides access to a 46-foot by 25-foot loading area with loading space for truck access on the ground floor. Existing traffic operations were evaluated at the study intersection during AM (7:00 – 9:00 AM) and PM (4:00 – 6:00 PM) peak hour turning movement counts collected on Wednesday October 11, 2017.

To determine potentially significant impacts related to the proposed project, existing intersections were selected for analysis based on City of San José criteria:

- South First Street / Reed Street** is a signalized intersection located adjacent to the project site and north of Interstate 280 in the City of San José. The intersection has five approach legs which are offset from one another and includes Market Street, North First Street (one-way), South First Street, East Reed Street, and West Reed Street. The Market Street southbound approach consists of one left-turn, one through, and one through-right lane. The Reed Street westbound approach is offset by approximately 100 feet south of the main intersection and is restricted to one right-turn lane. The Reed Street eastbound approach consists one through-left and one right-turn lane. For First Street, the northbound approach consists of a raised median, one left-turn, one through lane to Market Street, and one through-right lane to First Street.
- South Second Street / Reed Street** is a signalized intersection located east of the project site and north of Interstate 280 in the City of San José. Second Street is one-way in the southbound direction and consists of one through-left and one through-right lane. The Reed Street eastbound approach consists of one through-right lane while the westbound approach consists of one left-turn and two through lanes.

## **Road Network**

### *Regional Access*

**State Route 87** (SR 87) is primarily a six-lane freeway (four mixed-flow lanes and two HOV lanes) that is aligned in a north/south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101.

**Interstate 280** (I-280) is an 8-lane freeway that connects with State Route 87 and travels in an east-west direction in the City of San José Downtown area. Access to and from the project site via the I-280 eastbound direction is provided by ramp terminals at First Street, Sixth Street, and Seventh Street. For the I-280 westbound direction, access to and from the project site is provided by ramp terminals at Fourth Street and Seventh Street. An I-280 eastbound off-ramp and a westbound on-ramp at South Almaden Boulevard also provides access to and from the project site and the downtown area.

### *Local Access*

**First Street** is a four-lane undivided arterial road south of Reed Street with direct access to the Downtown Core Area and eastbound on-ramp access to Interstate 280. South First Street serves as the western boundary of the project site. North of San Carlos Street, First Street consists of a one-way street in the northbound direction with VTA light rail transit lines. First Street is identified as a Grand Boulevard within the Envision San José 2040 General Plan. Grand Boulevards are intended to serve as major transportation corridors with priority given to public transit. Given that the project front First Street, the project will be required to implement the following Grand Boulevard design principles:

- Provide a minimum 15-foot sidewalk along its frontage on South First Street
- Minimize driveway cuts

**East Reed Street** is a two lane, east-west collector road that serves as the northern boundary of the project site. An alleyway between First Street and Second Street provides driveway access to the project on Reed Street. The speed limit on Reed Street is 25 mph, and on-street parking is provided in both directions.

**Market Street** is an undivided four-lane, north-south arterial facility that serves the Downtown Core Area and merges into Colman Avenue to the north and First Street south of Reed Street near the project site.

### *Pedestrian and Bicycle Facilities*

Pedestrian activity within the downtown area and throughout the Market Street and First Street corridors are substantial. Connected sidewalks at least six feet wide are available along all roadways in the study area with good lighting and signing. Activated flashing side beacons at the Market /William Street intersection provide improved visibility and safety at unsignalized crosswalks while most signalized intersections have marked crosswalks, ramps, and count down timers.

The Guadalupe River multi-use trail system provides north-south access for bicyclists and pedestrians and runs through the City of San José along the Guadalupe River between Curtner Avenue and Alvisio. It is an 11-mile continuous Class I pathway that can be accessed to and from the project site at San Carlos Street and Woz Way in the downtown area.

At the project site frontage, pedestrian features including pedestrian count down signal heads, ADA curb ramps, and marked crosswalks are provided at the signalized First Street / Reed Street intersection and the

signalized Second Street / Reed Street intersection. There are no existing crosswalks along the north side of the South First / Reed Street intersection. Overall, the existing sidewalks and pedestrian facilities adjacent to the project have good connectivity and provide pedestrians with safe routes to the surrounding land uses.

Bicycle facilities within 1/3 mile of the project site include Class II bike lanes on Almaden Boulevard, Second Street, Third Street, and Fourth Street. There are no existing bike facilities on First and Reed Street adjacent to the project site. Bicyclists either share the lane with traffic or ride on the sidewalk when traveling on First Street.

The City participates in Bay Area Bike Share programs, which allow users to rent and return bicycles at various popular locations around the downtown area. In 2014, the City had 16 Bike Share stations in downtown with one located approximately 1,000 feet north of the project site on San Salvador at North First Street. A Bike Share is also located at the San José Diridon Caltrain Station.

In 2007, the City adopted the Green Vision which is a 15-year plan for economic growth, environmental sustainability, and enhanced quality of life for the community. From the Green Vision, the City aims to create 100 miles of off-street interconnected trails and 400 miles of on-street bike facilities by 2022. According to the 2020 San José Bike Plan, the City is planning new Class II bike lanes on Reed Street and Balbach Street as well as Class III bike routes on Almaden Avenue, William Street, and First Street within ½ mile of the project site.

#### *Transit Service*

Transit services in the study area include bus, light rail, and passenger train service. These transit services are provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak. Within 1/3 mile of the project site bus route 66, 68, 82, 304, and the DASH free shuttle serves the site. The nearest light-rail station is at the San José Convention Center, within 1/3 miles of the project site. San José Diridon Station is approximately 1.3 miles northwest of the project site and provides commuter rail service between San Francisco and Gilroy as well as the ACE between Stockton and San José and Amtrak service throughout the state.

### **6.16.2 Applicable Plans, Policies and Regulations**

#### *Metropolitan Transportation Commission*

Metropolitan Transportation Commission (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 the final Plan Bay Area in July 2013 which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan (2040).

#### *Santa Clara Valley Transportation Agency Congestion Management Program*

In accordance with California Statute, Government Code 65088, Santa Clara County has established a CMP. The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the county's CMP. The CMP requires review of substantial individual projects, which might on their own impact the CMP transportation system. Specifically, the CMP Traffic Impact Analysis measures impacts of a project

on the CMP Highway System. Compliance with the CMP requirements ensures a city's eligibility to compete for State gas tax funds for local transportation projects.

### ***San José Transportation Impact Policy 5-1***

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development under CEQA, as suggested by SB 743. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide per capita VMT. An employment (e.g., office, R&D) project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per employee 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 employee VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, which may include local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and to recommend needed transportation improvements.

### ***City of San José Envision San José 2040 General Plan***

The City's Envision San José 2040 General Plan includes the following transportation policies applicable to the proposed project:

- Policy 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).
- Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
- Policy 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.
- Policy TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
- Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
- Policy 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.

- Policy 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.
- Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.
- Policy 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.
- Policy 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.
- Policy TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
- Policy TR-8.8: Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.
- Policy 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.
- Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
- Action TR-10.4: In Tier II, require that a portion of adjacent on-street and City owned off-street parking spaces be counted towards meeting the zoning code’s parking space requirements.
- Policy 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.
- Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
- Policy CD-3.3: Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Policy 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.

### 6.16.3 Discussion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as transportation impacts do not substantially differ between the two scenarios.

- a) *Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?* **Same Impact as Approved Project – Less Than Significant Impact.**

In accordance with General Plan policies and consistent with Downtown Strategy 2040 FEIR, the project will facilitate pedestrian and bicycle access and safety. Existing sidewalks along the project frontages on South First Street and Reed Street would be reconstructed and provide bicycle and pedestrian access to the proposed project. The residential lobby and associated areas (e.g., front desk, leasing office, mail room, elevators), as well as the commercial space and stairwells, would be located along First Street. The existing network of sidewalks and crosswalks in the study area have good connectivity and would provide residents with safe routes to bus stops and other points of interest in the downtown area. Many of the streets adjacent to the project frontage feature lighting, landscaping, and wide sidewalks, which improve pedestrian perceptions of comfort and safety and provide a positive pedestrian experience.

For these reasons, the proposed project supports goals, policies, and programs adopted by the City and VTA for encouraging alternative transportation modes and increasing the safety and performance of transit, bicycle, and pedestrian facilities and would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

As noted in response 6.16 (b), the proposed project would not exceed a level of service standard established by the CMP for designated roads or highways. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- b) *Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?* **Same Impact as Approved Project – Less Than Significant Impact.**

The proposed Option 1 (290 dwelling units and up to 4,800 square feet of commercial space) and Option 2 (850 bedroom and 6,000 square feet of commercial space) are part of the 14,360 dwelling units and 1.4 million square feet of retail space included in the Downtown Strategy 2040 FEIR. Per Council Policy 5-1, the effects of the proposed Downtown Strategy 2040 FEIR on vehicle miles traveled (VMT) was evaluated using the methodology outlined in the City's Transportation Analysis Handbook. The City's VMT guidelines have established an impact threshold VMT per capita of 10.12 and VMT per employee of 12.22. The VMT per capita is anticipated to be about 8.99, and the VMT per employee is anticipated to be about 11.31 in the Downtown Growth Boundary. Based on the Downtown Strategy 2040 FEIR, VMT per capita and VMT per employee in the Downtown Growth Boundary would be below the established thresholds and not result in an impact on the transportation system.

For the proposed project, the VMT per capita is anticipated to be about 8.67 for the Option 1 traditional multi-family apartments and 6.29 for the Option 2 co-living community, as outlined below in Table 11 and Table 12 respectively. The VMT is lower for the Option 2 because the co-living community consists of a larger residential density and more affordable housing than the Option 1 apartment scenario. Both Option 1 and Option 2 would not trigger a VMT transportation impact and would therefore result in a less than significant impact.

- c) *Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?* **Same Impact as Approved Project – Less Than Significant Impact.**

Option 1 and Option 2 would involve the same building footprint, driveway configuration, and nearly the same exterior building architecture apart from some minor differences in the ground floor layout. Project site access and circulation for vehicles, bicycles, and pedestrians would yield similar operations between Option 1 and Option 2, as well. A review of the Options were prepared in the TOA & Supplemental Traffic Analysis Memorandum to determine if adequate site access and on-site circulation is provided and to identify any access issues that should be improved. The review, summarized below, was based on the current site plans, and in accordance with generally accepted traffic engineering standards and City of San José requirements.

#### ***Site Access***

Option 1 proposes up to 232 on-site reserved residential parking spaces accessed by a driveway on South First Street to access lower level parking garage and the alley of East Reed Street to access the three upper levels of the parking garage. The South First Street driveway would be limited to a single right-in right-out access, and those heading southbound on South First Street and wanting to access the garage would have to either circle the block along Reed Street, Second Street, and Margaret Street; or drive past the project site and make a northbound U-turn at the Margaret Street intersection. Both garage driveways would include a roll-up gate at the property line and accessed by residential tenants only.

The Option 2 project alternative is required to provide a minimum of 213 off-street vehicle parking spaces and 180 off-street bicycle spaces. The Option 2 Co-Living Community alternative proposes a four-story below-grade garage with a total of approximately 124 parking stalls, and no above grade parking is proposed. The parking garage would be located underground (B1-B4). No visitor or guest parking would be available, and all parking would be reserved. Vehicular parking in the basement would be accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor for approximately 180 bicycle racks. Access to the bike room would be from the alley on the eastern side of the building.

The City is planning to improve the South First Street/ East Reed Street intersection by removing the pork chop islands, tightening the curb radii on the corners, and adding an eastbound left-through turn phase to the signal so that the intersection operates as a typical split-phase offset intersection. The project applicant would need to provide a fair-share contribution for the planned improvements that would enhance safety, circulation, and network access for vehicles, bicycles, and pedestrians. The exact fair-share amount would be coordinated between the project applicant and City staff.

The roadway serving the project site is generally straight and flat. The site driveways and proposed project improvements would be designed to provide adequate sight distance for drivers entering and exiting the project site. The proposed project would not introduce any new design features that would

create hazards to traffic. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no additional mitigation is required.

### ***Vehicular On-Site Circulation***

For Option 1 and Option 2, access to the four parking levels below grade (B1 to B4) would be provided by the garage ramp on First Street while access to the three parking levels above grade (Floors 2 to 4) would be provided by the garage ramp at the east alleyway. The parking garages are gated for resident access, and there is no connecting vehicle ramp between the above grade and underground garages. The internal parking garage layout and driveway ramps were evaluated for vehicle access using turning-movement templates. Vehicle maneuverability and access was analyzed using AutoTURN software which measures design vehicle swept paths and turning through simulation and clearance checks. A passenger car design from the American Association of State Highway and Transportation Officials (AASHTO) was assessed for the internal parking garage levels.

Analysis using the AASHTO template revealed that passenger vehicles could adequately access the ramps and maneuver through all parking levels. The drive aisles inside the garage are 26 to 28-foot wide and 90-degree parking is provided on both sides. On-site parking spaces are dimensioned 8.5-foot by 18-foot and satisfy City parking standards. Parking spaces located to adjacent to supporting walls and columns could be labeled compact spaces. To improve vehicle visibility on-site, convex mirrors should be placed appropriately around tight corners and blind spots.

Therefore, the circulation within the parking garage would be adequate and would not result in significant impacts to the circulation patterns of the surrounding area. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 would occur and no additional mitigation is required.

c) ***Result in inadequate emergency access?*** **Same Impact as Approved Project – Less Than Significant Impact.**

The proposed project would provide access along South First Street and the alley through East Reed Street. In the event of an emergency, a fire apparatus vehicle can enter and exit along the east alleyway. Fire trucks would have to exit the driveway in reverse due to horizontal constraints in the alley. The alley is 24-foot wide and satisfies the 20-foot minimum access road requirement from the 2016 CA Fire Code. Fire code requires driveway ramps to provide at least 32-foot of clearance for fire truck access. The existing project driveway curb ramps on First Street and Reed Street are 24-foot wide. To allow room for delivery and fire trucks to enter and exit the east alley on Reed Street, the project would either need to stripe 4-foot of red curb on each side of the existing 24-foot wide driveway ramp or reconstruct the driveway ramp to 32-foot commercial width per City of San José standard detail. Compliance with the Fire Department requirements would ensure impacts remain less than significant. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no additional mitigation is required.

### **6.16.4 Operational Transportation Issues not Required Under CEQA**

The following information is not required under CEQA, but is provided here for informational purposes to help the decision makers in their consideration of the project.



## Trip Generation

Trip generation for the proposed Option 1 and Option 2 was calculated using the San Jose 2018 *Transportation Analysis Handbook* and trip generation rates from the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Edition*. Daily, AM, and PM peak hour trips for the project alternatives were calculated with average trip rates.

The project site is located within the Downtown Growth Boundary and within walking distance to the Convention Center VTA light rail transit station on San Carlos Street. The project also contains multiple land uses including residential and retail services. Per the San José 2018 *Transportation Analysis Handbook*, the following trip adjustments were applied to Option 1 and Option 2:

- **Internal Trip Adjustment:** A 15 percent trip reduction credit was applied for the project having a housing and retail mixed use development.
- **Location Based Adjustment:** The project location is designated as “Urban High-Transit” with a vehicle mode share of 78 percent for residential land uses, therefore a 22 percent mode share trip reduction credit was applied to the project.
- **Project Trip Adjustment:** As the project would implement vehicle miles traveled (VMT) reduction strategies, per City guidelines, it is assumed that every percent reduction in per-capita VMT is equivalent to one percent reduction in peak hour vehicle trips for residential projects. From the City’s VMT sketch tool, the proposed project is anticipated to generate a VMT per capita of 8.67 for Option 1 and 6.29 for Option 2. Since the existing VMT is 8.99, a VMT vehicle-trip reduction credit of 4 percent for Option 1 and 31 percent for Option 2 was applied to the project.
- **Existing Use Adjustment:** A trip reduction credit is applied for the existing land uses on the site that will be replaced by the project.

According to the Traffic Operational Analysis prepared for this project, the existing uses on the project site generate 74 trips daily. Table 11 and Table 12 show the trips generated of Option 1 and Option 2, respectively.

**Table 11: Project Trip Generation – Option 1**

Land Use / Description	Project Size	Total Daily Trips	AM Peak Trips		PM Peak Trips	
			Total	In / Out	Total	In / Out
<b>Trip Generation Rates (ITE 10<sup>th</sup> Edition)</b>						
Multi-Family Housing (High Rise) [ITE 222]	Per DU	4.45	0.31	24% / 76%	0.36	61% / 39%
General Office Building [ITE 710]	Per KSF	9.74	1.16	86% / 14%	1.15	16% / 84%
<b>Option 1: Apartment Units (Garden Gate Tower)</b>						
Multi-Family Residential Units	290.00 DU	1,291	90	22 / 68	104	63 / 41
Retail Tenant (Ground Floor)	4.84 KSF	47	6	5 / 1	6	1 / 5
<b>Baseline Project Vehicle Trips (Prior to adjustments)</b>		<b>1,338</b>	<b>96</b>	<b>27 / 69</b>	<b>110</b>	<b>64 / 46</b>
<b>Internal Trip Adjustments</b>						
VTA Mixed-Use Reduction (Housing & Retail)	-15%	(14)	(2)	(2) / (1)	(2)	(0) / (2)
<b>Project Vehicle Trips After Reduction</b>		<b>1,324</b>	<b>94</b>	<b>26 / 69</b>	<b>108</b>	<b>64 / 44</b>

Land Use / Description	Project Size	Total Daily Trips	AM Peak Trips		PM Peak Trips	
			Total	In / Out	Total	In / Out
VMT Vehicle-Trip Reduction (Model Sketch Tool)	-4%	(42)	(3)	(1) / (2)	(4)	(2) / (2)
<b>Project Vehicle Trips After Reduction</b>		<b>990</b>	<b>70</b>	<b>19 / 52</b>	<b>80</b>	<b>47 / 33</b>
<b>Other Trip Adjustments</b>						
Existing Office Building Credit	-5.20 KSF	(46)	(6)	(5) / (1)	(6)	(1) / (5)
Existing Apartment Credit	-4.00 DU	(16)	(2)	(0) / (2)	(2)	(1) / (1)
<b>Final Project Vehicle Trips</b>		<b>928</b>	<b>62</b>	<b>13 / 49</b>	<b>72</b>	<b>45 / 27</b>
Notes: Land Uses assumed based on latest site plan from C2K Architecture (11/18/2018) Daily, AM, and PM trips based on average land use rates from the Institute of Traffic Engineers Trip Generation 10 <sup>th</sup> Edition Mixed-Use Reduction based on standard trip reduction of 15% off the smaller trip generator (Retail) from VTA Transportation Impact Analysis Guidelines 2014. The same number of trips were reduced from the larger trip generator (Residential) to account for both trip ends. A 22% Mode Share Reduction from San José Transportation Analysis Handbook 2018 was applied since the project is located in an "Urban High-Transit" area. A 4% VMT Reduction from San José Transportation Analysis Handbook 2018 applied due to increased alternative transportation mode share from project characteristics. Reduction percentage obtained from City VMT Evaluation Tool. Source: Traffic Operational Analysis Memorandum, Kimley-Horn, 2019.						

For Option 1, ITE's Multi-Family Housing (High-Rise) trip rate was applied to the 290 proposed dwelling units which consist of one or two-bedroom apartment floorplans. ITE's General Office Building trip rate was assumed for the proposed 5,001 square foot retail space to conservatively analyze future tenant use which is unknown at this time.

Table 11 provides a summary of the proposed trip generation and trip reductions for the apartment uses under Option 1. Development of Option 1 with applicable trip reductions is anticipated to generate a net total of 928 daily, 62 AM peak hour, and 72 PM peak hour trips.

**Table 12: Project Trip Generation – Option 2**

Land Use / Description	Project Size	Total Daily Trips	AM Peak Trips		PM Peak Trips	
			Total	In / Out	Total	In / Out
<b>Trip Generation Rates (ITE 10<sup>th</sup> Edition)</b>						
Multi-Family Housing (High Rise) [ITE 222]	Per DU	4.45	0.31	24% / 76%	0.36	61% / 39%
General Office Building [ITE 710]	Per KSF	9.74	1.16	86% / 14%	1.15	16% / 84%
<b>Option 2: Co-Living Units (Garden Gate Tower)</b>						
Equivalent Multi-Family Residential Units	607.00 DU	2,701	188	45 / 143	219	134 / 85
Retail Tenant (Ground Floor)	6.00 KSF	58	7	6 / 1	7	1 / 6
<b>Baseline Project Vehicle Trips (Prior to adjustments)</b>		<b>2,759</b>	<b>195</b>	<b>51 / 144</b>	<b>226</b>	<b>135 / 91</b>
<b>Internal Trip Adjustments</b>						
VTA Mixed-Use Reduction (Housing & Retail)	-15%	(17)	(3)	(2) / (1)	(3)	(0) / (3)
<b>Project Vehicle Trips After Reduction</b>		<b>2,742</b>	<b>192</b>	<b>49 / 143</b>	<b>223</b>	<b>135 / 88</b>
<b>Location Based Mode Share Adjustments</b>						
Urban High-Transit Reduction (Mode Share)	-22%	(604)	(43)	(11) / (32)	(50)	(30) / (20)
<b>Project Vehicle Trips After Reduction</b>		<b>2,138</b>	<b>149</b>	<b>38 / 111</b>	<b>173</b>	<b>105 / 68</b>
<b>Project Trip Adjustments</b>						
VMT Vehicle-Trip Reduction (Mode Share)	-31%	(663)	(47)	(12) / (35)	(54)	(33) / (21)
<b>Project Vehicle Trips After Reduction</b>		<b>1,475</b>	<b>102</b>	<b>26 / 76</b>	<b>119</b>	<b>72 / 47</b>

Land Use / Description	Project Size	Total Daily Trips	AM Peak Trips		PM Peak Trips	
			Total	In / Out	Total	In / Out
<b>Other Trip Adjustments</b>						
Existing Office Building Credit	-5.20 KSF	(46)	(6)	(5) / (1)	(6)	(1) / (5)
Existing Apartment Credit	-4.00 DU	(16)	(2)	(0) / (2)	(2)	(1) / (1)
<b>Final Project Vehicle Trips</b>		<b>1,412</b>	<b>94</b>	<b>21 / 73</b>	<b>111</b>	<b>70 / 41</b>
Notes: Land Uses assumed based on revised project description for each site plan option. Daily, AM, and PM trips based on average land use rates from the Institute of Traffic Engineers Trip Generation 10 <sup>th</sup> Edition. Mixed-Use Reduction based on standard trip reduction of 15% off the smaller trip generator (Retail) from VTA Transportation Impact Analysis Guidelines 2014. The same number of trips were reduced from the larger trip generator (Residential) to account for both trip ends. A 22% Mode Share Reduction from San José Transportation Analysis Handbook 2018 was applied since the project is located in an "Urban High-Transit" area. A 31% VMT Reduction from San José Transportation Analysis Handbook 2018 applied due to increased alternative transportation mode share from project characteristics. Reduction percentage obtained from City VMT Evaluation Tool. 850 Co-Living bedrooms converted into equivalent Multi-Family Residential Units by assuming 1.5 resident/bedroom and 2.1 resident/MFR conversion rates provided by the City.						

For Option 2, the project would construct approximately 850 co-living bedroom units where each unit is occupied by multiple tenants that share common space facilities. Due to limited trip rate data and published sources for co-living land uses, vehicle trips for co-living units were estimated based on methodology and assumptions provided by City staff. The proposed co-living units were converted into an equivalent multi-family residential (MFR) unit for trip generation comparison with the Option 1 apartment land use scenario. The 850 co-living bedrooms were multiplied by a 1.5 residents per bedroom rate and divided by a 2.1 residents per MFR rate to obtain an equivalent MFR total of 607 MFR units. ITE's Multi-Family Housing (High-Rise) trip rate was then applied to the 607 MFR units to estimate the Option 2 trip generation.

Table 12 provides a summary of the proposed trip generation and trip reductions for the co-living uses under Option 2. Development of Option 2 with applicable trip reductions is anticipated to generate a net total of 1,412 daily, 94 AM, and 111 PM peak hour trips.

**Table 13: Project Trip Generation Comparison**

Scenario	Total MFR Unites	Total Daily Trips	AM Peak Trips			PM Peak Trips		
			Total	In	Out	Total	In	Out
Option 1 – Multi-Family	290	929	62	13	49	72	45	27
Option 2 – Co-Living	607	1,412	94	21	73	111	70	41
<b>Delta</b>	<b>317</b>	<b>483</b>	<b>32</b>	<b>8</b>	<b>24</b>	<b>39</b>	<b>25</b>	<b>14</b>
	<b>209%</b>	<b>152%</b>	<b>152%</b>	<b>162%</b>	<b>149%</b>	<b>154%</b>	<b>156%</b>	<b>152%</b>

Table 13 summarizes the project trip generation for the Garden Gate Tower Option 1 and Option 2 alternatives. The Option 2 co-living arrangement is expected to generate more project vehicle trips than the Option 1 apartment layout.

### **Parking**

Option 1 is required to provide one off-street parking space per residential unit meaning the project is required to provide a total of 290 off-street parking spaces, per Chapter 20.70 and Table 20-140 of the San José Municipal Code. Option 1 would provide 232 total off-street vehicle spaces, and proposes a Transportation Demand Management (TDM) program (Municipal Code Chapter 20.90) for an off-street parking reduction to satisfy the parking requirements. The TDM for Option 1 is included in Appendix I.

Per Municipal Code Chapter 20.90.060, Option 1 is required to provide one bicycle parking space for every four residential units, equating to 72 bicycle parking spaces. The project will satisfy the City's bicycle parking standard by providing 74 total bike spaces in secured storage rooms on each parking level by the stairwell and in the loading area.

Option 2 is required to provide one off-street vehicle parking space for every four bedrooms resulting in providing a minimum of 213 off-street vehicle parking spaces, per Municipal Code Section 20.80.290, 20.90.060, and 20.200.197. Option 2 proposes a four-story below-grade garage with a total of approximately 124 parking stalls, and no above grade parking is proposed. No visitor or guest parking would be available, and all parking would be reserved. This represents a 42 percent reduction in the parking requirement and therefore Option 2 would include a TDM program to reduce the number of vehicle trips generated by the project and to satisfy allowable parking reductions (Municipal Code Chapter 20.90). The TDM for Option 1 is included in Appendix I. A 42 percent parking reduction for the Option 2 could be applied since the project would be located within walking distance to the downtown VTA rail station, would provide sufficient on-site bicycle parking, and would implement a TDM program with City approved measures.

For bike parking, a co-living community is required to provide 25 long-term bicycle parking spaces plus 0.20 long-term spaces for every bedroom over 100 and at least two short-term bicycle parking spaces for every 100 bedrooms. Based on these ratios, Option 2 is required to provide a minimum of 213 off-street vehicle parking spaces and 180 off-street bicycle spaces. Option 2 would satisfy the City's bicycle parking requirement.

#### **6.16.5 Conclusion**

With implementation of General Plan policies and Municipal Code policies, the project would not result in significant impacts to transportation and site circulation under either Option 1 or Option 2.

## 6.17 UTILITIES AND SERVICE SYSTEMS

Issues	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 storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A Water Supply Assessment was prepared by San José Water (April 2019) to evaluate the relationship between existing and future water supplies associated with the project in San José Water’s service area. The report is provided as Appendix J.

### 6.17.1 Existing Setting

The project would comply with the City Municipal Code and permitting process for any modifications to the existing solid waste generation, sanitary sewer and stormwater infrastructure potentially required over the duration of the project. The project site is located within the Urban Service Area of the City of San José and is currently served by City services. Off-site facilities would not be required to be upgraded or expanded to serve the project. The project can be adequately served by existing utilities.

Utilities and services are furnished to the project site by the following providers:

**Wastewater Treatment:** treatment and disposal provided by the San José / Santa Clara Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José.

**Water Service:** San José Water Company.

**Storm Drainage:** City of San José.

**Solid Waste:** Garden City Sanitation (Garbage), California Waste Solutions (Recycling) and Green Waste Recovery (Yard Trimmings).

**Natural Gas & Electricity:** PG&E.

### **6.17.2 Applicable Plans, Policies and Regulations**

#### ***Assembly Bill 939***

Assembly Bill 939 (AB 939) established the CIWMB (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

#### ***California Green Building Standards Code***

In January 2010, the State of California adopted the California Green Building Standards Code that establishes 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 resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, 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 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupant.

#### ***Urban Water Management Plan***

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, and opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in 2015. Water service to the downtown area is provided by the San José Water Company, which gets its water from a variety of sources including groundwater (approximately 40 percent), imported surface water (approximately 50 percent), and local mountain surface water (approximately 10 percent) (San Jose Water, 2019).

#### ***San José Zero Waste Strategic Plan/Green Vision***

The Green Vision provides a comprehensive approach to achieve 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 Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

### ***Private Sector Green Building Policy***

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

### ***City of San José Envision San José 2040 General Plan***

The City's Envision San José 2040 General Plan includes the following utility and service policies applicable to the project:

- Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
- Policy 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.
- Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
- Policy 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.
- Policy 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.
- Policy IN-3.7: Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
- Policy IN-3.9: Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

### **6.17.3 Discussion**

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as utilities and services systems impacts do not substantially differ between the two scenarios.

- a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? **Same Impact as Approved***

**Project – Less Than Significant Impact.**

- b) *Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?* **Same Impact as Approved Project – Less Than Significant Impact.**

According to 2040 General Plan EIR, development under the 2040 General Plan is estimated to generate approximately 30.8 mgd of average dry weather influent flow. Since the City has approximately 38.8 mgd of excess treatment capacity, planned growth in the City is not expected to exceed the City’s allotted capacity. As discussed above, the San José-Santa Clara RWF in Alviso provides wastewater treatment services for the project area.

The Downtown Strategy 2000 EIR determined that that increase in wastewater from development in Downtown could cause effluent from the San José-Santa Clara RWF to exceed the RWQCB limit of 120 mgd. However, according to the 2040 GP EIR, future average dry weather effluent flow in SJ would not exceed 120 mgd under long-term cumulative conditions.

Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the San José-Santa Clara RWF has sufficient treatment capacity to accommodate planned growth under both options, as well as reduce the potential for future exceedances of the RWQCB effluent limit. In addition, the proposed project is not requesting a zone change that would increase wastewater generation that was previously analyzed in the Downtown Strategy 2040 FEIR, so the treatment capacity of the San José-Santa Clara RWF would not be exceeded as a result of the proposed project or the project’s contribution to existing treatment commitments. The proposed project would be consistent with the Downtown Strategy 2040 FEIR and construction of new wastewater treatment facilities would not be required as a result of the proposed project.

Environmental impacts from the construction of new or expanded facilities would be avoided by utilization of existing facilities, which are currently well below capacity. The projected wastewater demand of the project, by itself, would not result in an exceedance of capacity at the RWF. A determination of excess treatment capacity at the RWF takes into account current uses within the City of San José and within the treatment plant’s service boundaries. Consistent with the Downtown Strategy 2040 FEIR, the treatment capacity of the RWF would not be exceeded as a result of the proposed project or the project’s contribution to existing treatment commitments.

- c) *Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?* **Same Impact as Approved Project – Less Than Significant Impact.**

The analysis below is based on the Water Supply Assessment (WSA) prepared by San Jose Water Company (SJW) for the proposed project (Appendix J).

Water service to the project site is provided by San José Water Company. There is an existing 12-inch water line in South Market Street, a 12-inch line in William Street, and a 12-inch line in South First Street. The City of San José administers the South Bay Water Recycling (SBWR) program which provides a reliable, sustainable, and drought-proof supply of water to the South Bay area. The nearest recycled water line is within East San Fernando Street, just east of South Fourth Street on San José State University Campus, approximately 0.6 miles north of the project site. Another recycled water line runs the length of 12<sup>th</sup> Street approximately 0.7 miles east of the site. The Downtown Strategy 2000 EIR determined that development in Downtown could result in the need for new or expanded water



entitlements. SJWC estimates that the total water demand for their service area could reach approximately 160,877 acre-feet per year (AFY) by 2040. However, with implementation of conservation measures and recycled water supplies, SJWC would meet projected system wide demand. Total future water demand in the Downtown area in 2040 would be roughly 7,533 AFY and would be within normal growth projections for water demand in SJWC's system.<sup>29</sup> As shown in Table 14: Estimated Water Demand, it is estimated that under Option 1, the project would have a water demand of approximately 94,000 gpd and under Option 2, the project would have a water demand of approximately 129,000 gpd.

**Table 14: Estimated Water Demand**

Option 1			Option 2		
Residential (gpd) <sup>1</sup>	Commercial (gpd) <sup>2</sup>	Total (gpd)	Co-living Unit (gpd) <sup>3</sup>	Commercial (gpd) <sup>4</sup>	Total (gpd)
92,800	1,200	94,000	127,500	1,500	129,000
Source: SJ Water, 2019					
<sup>1</sup> Residential demand based on 290 units and a demand factor of 100 gallons per capita per day for all new residents and 3.2 people per residential unit based on 2018 population estimates from the California Department of Finance.					
<sup>2</sup> Commercial demand based on 4,800 square feet of commercial space and a demand factor of 0.25 gallons per day per square foot of commercial space.					
<sup>3</sup> Co-living unit demand based on 850 bedrooms, 1.5 people per bedroom, and 100 gallons per capita per day.					
<sup>4</sup> Commercial demand based on 6,000 square feet of commercial space and a demand factor of 0.25 gallons per day per square foot of commercial space.					

The annual net demand increase in potable water usage associated with Option 1 and Option 2 of this project is 104.9 acre-feet per year (AF/yr) and 144.1 AF/yr, respectively, after deducting the existing demand of 0.4 AF/yr that would be eliminated. Water usage associated with Options 1 and 2 for this Project represent a 0.07% and a 0.10% increase, respectively, over the system wide 2013 water production of 146,776 acre-feet. The increase in demand for both options was accounted for in 2015 Urban Water Management Plan, which projected a 12.3% increase between actual 2013 usage and estimated 2040 usage. Therefore, the project demand associated with Option 1 or Option 2 is within normal growth projections for water demand in SJW's system. Furthermore, SJW has no concern regarding the concentration of demand in this area, as the Project region is located in one of SJW's highest producing groundwater zones.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

- 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? **Same Impact as Approved Project – Less Than Significant Impact.***
- e) *Comply with federal, State, and local management and reduction statutes and regulations related to solid waste? **Same Impact as Approved Project – Less Than Significant Impact.***

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. According to the IWMP, Santa Clara 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. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. According to the Downtown Strategy 2040 FEIR, the local landfills have sufficient capacity for at

<sup>29</sup> City of San José Downtown Strategy 2040 FEIR, 2018. Pg. 330

least another ten years. According to Table 15: Existing Solid Waste Generation, it is estimated that the existing use generates approximately 68 pounds of solid waste per day.

**Table 15: Existing Solid Waste Generation**

Land Use	Solid Waste Rate	Size	Solid Waste Generated
Residential	4.4 lbs/day/dwelling unit	4 dwelling units	17.6 lbs
Office	1.0 lb/100 sf/day	4,644 square-feet	46.55 lbs
<b>Total</b>			<b>68.15 lbs</b>

Source: San José Downtown Strategy 2040 FEIR, 2018.

Under both options, the proposed project would intensify the uses on the site and increase the amount of solid waste generated on-site compared to existing uses. As seen in Table 16: Proposed Solid Waste Generation for the proposed project, Option 1 would generate approximately 1,691 lbs of solid waste per day and Option 2 would generate approximately 3,428 lbs of solid waste per day. According to the City’s General Plan FPEIR the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future development allowed under the Envision San José 2040 General Plan would implement the City’s Zero Waste Strategic Plan. This Plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City’s increased service population.

**Table 16: Proposed Solid Waste Generation**

	Land Use	Solid Waste Rate	Size	Solid Waste Generated
Option 1	Residential	5.4 lbs/day/dwelling unit	290 dwelling units	1,566 lbs
	Retail	2.5 lb/100 sf/day	5,001 square-feet	125 lbs
<b>Total</b>				<b>1,691 lbs</b>
Option 2	Residential	5.4 lbs/day/dwelling unit	607 dwelling units	3,278 lbs
	Retail	2.5 lb/100 sf/day	6,000 square-feet	150 lbs
<b>Total</b>				<b>3,428 lbs</b>

Source: San José Downtown Strategy FEIR, 2018.

The proposed project is consistent with the development assumptions evaluated in the General Plan. Implementation of the proposed project, therefore, would have the same significant as the approved project on the City’s solid waste disposal capacity. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no mitigation is required.

**6.17.4 Conclusion**

The proposed project would not require construction of new off-site facilities for wastewater treatment, storm drainage, water, or waste disposal. Existing facilities have the capacity to serve the anticipated uses, and the project would not substantially increase demand on these facilities compared to existing conditions. Implementation of General Plan policies, City ordinances, and Government Codes would ensure that development under the proposed project would not significantly impact utilities and service systems for either Option 1 or Option 2.

## 6.18 ENERGY CONSERVATION

Issues	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 potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 6.18.1 Existing Setting

The 0.42-acre project site is a surface parking lot, single-story brick building used as office with a parking lot to the south side and a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

### 6.18.2 Conclusion

As proposed, the project would demolish existing building and construct a high density residential structure. The project would increase the amount of energy consumed at the project site as a result of construction activities and the long-term operation of the proposed building. The consistency of the proposed energy with the City’s Envision San José 2040 General Plan and other major development studies is evaluated in the SEIR for this proposed project. No further analysis is provided in this Initial Study.

## 6.19 WILDFIRE

Issues	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. Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 6.19.1 Existing Setting

The 0.42-acre site is located within an urban area and is predominantly surrounded by residential and commercial uses. The proposed project is zoned as “Non-Very High Fire Hazard Safety Zone” on the Very High Hazard Severity Zones in LRA Map dated October 2008 and “LRA Incorporated” on the Fire Hazard Severity Zones in LRA Map dated October 2007.

The City has participated in the development of a multi-jurisdictional hazard plan by ABAG. The hazard mitigation plan, *Taming Natural Disasters*, includes mitigation activities and strategies for dealing with hazards that are likely to impact the Bay Area, including wildfires. The City has also adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. The Plan identifies the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

### 6.19.2 Conclusion

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as wildfire impacts do not substantially differ between the two scenarios.

The General Plan contains development Wildland and Urban Fire policies specific to development within “Very High” hazard zones or near urban/wildlife interfaces. As the proposed project is not located in a “Very High” zone and would not conflict with the wildland fire hazard policies identified in the General Plan policies. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

## 6.20 MANDATORY FINDINGS OF SIGNIFICANCE

Issues	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. 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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 6.20.1 Discussion

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

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified Standard Permit Conditions and mitigation measures. As discussed in *Section 6.4 Biological Resources*, the project would not have a significant impact sensitive habitat or species.

As identified *Section 6.5 Cultural Resources* would have potentially significant impact on historic resources located on the project site. In addition, subsurface cultural resources could be uncovered during demolition and construction of the project. The project would have a significant land use impact from increased shading as discussed in the SEIR. The project would also have potentially significant impacts on Aesthetics and Energy Consumption as a result of the construction of a new residential

tower which would change the visual character of the project site as well as the amount of energy consumed.

Other than aesthetics, cultural resources, land use, and energy consumption the project would not result in new or more significant impacts than identified in the certified Downtown Strategy 2040 FEIR.

- 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)?*

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed development would result in temporary air quality, water quality, biology, and noise impacts during construction. With the implementation of the identified mitigation measures, Conditions of Project Approval, and Standard Permit Conditions, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. As the identified impacts are temporary and would be mitigated, the project would not have cumulatively considerable impacts on air quality, water quality, biology, and noise impacts in the project area.

Implementation of the project could result in the demolition of a house that has been determined to be eligible for listing the federal and state registries as a historical structure for its architectural qualities. The project would also contribute to the continued urbanization of the project area and contribute to the cumulative loss of historic structures in downtown San José. Therefore, the project could have a cumulatively considerable impact on cultural resources.

The project would have a less than significant impact on aesthetics, geology and soils, hazards and hazardous materials, hydrology and water quality, population and housing, recreation, and utilities, and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forest resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project’s contribution to a cumulative impact on public services and transportation were analyzed in the certified Downtown Strategy 2040 FEIR. The proposed project would not result in a more significant cumulative impact related to these issues than disclosed within these documents. It should be noted, however, that in the short-term students generated by the proposed project, in combination with other proposed residential development in the downtown area, could increase the student population of Peter Burnett Middle School beyond its current capacity.

The project would contribute to the significant cumulative transportation impact that would occur under full buildout of the Downtown Strategy 2040 Plan. The project would not, however, result in any new

or more significant cumulative impacts than the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans.

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

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction impacts related to air quality, hazardous materials and noise. However, implementation of mitigation measures and General Plan policies would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.



## **SECTION 7.0    PREPARERS**

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