Initial Study/Addendum

200 Park Avenue Office Project

File No. H18-045

October 2019
ADDENDUM TO THE DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2003042127), AND ADDENDA THERETO

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

H18-045 – 200 Park Avenue Office Project. Site Development Permit to allow for the demolition of the existing buildings and the construction of an approximately 1,055,000 square-foot office building with 840,000 square feet of office space, 229,200 square feet of above-grade parking, and 282,800 square feet of below-grade parking on an approximately 1.7-gross acre site.

Location: The 1.7 gross-acre project site is located on the southeast corner of Park Avenue and Almaden Boulevard in downtown San José.


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

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

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

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

ANALYSIS

In December 2018, the City of San José certified the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Downtown Strategy 2040 FEIR responded to changed environmental circumstances and conditions since the Downtown Strategy 2000 FEIR was adopted by the City Council in 2005.

The Downtown Strategy 2040 is an update and replacement of the Downtown Strategy 2000: San José Greater Downtown Strategy for Development (Downtown Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy 2040 is necessary to: (i) respond to changed circumstances and conditions; and (ii)
increase the Downtown development capacity to year 2040 consistent with the General Plan. The Downtown Strategy 2040 FEIR is a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of the Downtown Strategy 2040:

- 14.2 million square feet of office uses;
- 14,360 residential dwelling units;
- 1.4 million square feet of retail uses; and
- 3,600 hotel rooms.

The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. The project, as proposed, would construct an office building with 840,000 square feet of office space, 229,200 square feet of above-grade parking, and 282,800 square feet of below-grade parking. The type and intensity of development proposed is consistent with the anticipated development in the Downtown Strategy 2040 FEIR.

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. The Initial Study/Addendum prepared for this project provides that subsequent project-level environmental review. Consistent with the updated Downtown Strategy 2040 FEIR, the modified project will implement all applicable conditions and mitigation measures such as air quality equipment restrictions, pre-construction raptor surveys, cultural resource monitoring during construction, and noise and vibration monitoring during construction. Applicable mitigation measures have been included in a Mitigation Monitoring and Reporting Program (MMRP) document for project-conformance prior to grading and construction.

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

The attached Initial Study provides background on the project description, specific project impacts, and the relationship between mitigation measures and the proposed project. This addendum (including Initial Study) will not be circulated for public review but will be attached to the Downtown Strategy 2040 Environmental Impact Report pursuant to CEQA Guidelines §15164(c).

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

9/25/19
Date

Deputy

Kara Hawkins
Environmental Project Manager
TABLE OF CONTENTS

Section 1.0 Introduction and Purpose ................................................................. 1
Section 2.0 Project Information ........................................................................ 2
Section 3.0 Project Description ......................................................................... 6
Section 4.0 Environmental Setting, Checklist, and Impact Discussion .......... 9
  4.1 Aesthetics ................................................................................................. 10
  4.2 Agricultural and Forestry Resources ....................................................... 21
  4.3 Air Quality .............................................................................................. 24
  4.4 Biological Resources ............................................................................... 36
  4.5 Cultural Resources .................................................................................. 49
  4.6 Energy ...................................................................................................... 56
  4.7 Geology and Soils ................................................................................... 64
  4.8 Greenhouse Gas Emissions ..................................................................... 73
  4.9 Hazards and Hazardous Materials .......................................................... 81
  4.10 Hydrology and Water Quality ................................................................. 92
  4.11 Land Use and Planning ......................................................................... 104
  4.12 Mineral Resources ................................................................................ 112
  4.13 Noise and Vibration .............................................................................. 114
  4.14 Population and Housing ....................................................................... 126
  4.15 Public Services ...................................................................................... 128
  4.16 Recreation .............................................................................................. 133
  4.17 Transportation/Traffic ......................................................................... 135
  4.18 Tribal Cultural Resources ..................................................................... 149
  4.19 Utilities and Service Systems ................................................................. 152
  4.20 Wildfire .................................................................................................. 160
  4.21 Mandatory Findings of Significance ...................................................... 161
Section 5.0 References .................................................................................... 164
Section 6.0 Lead Agency and Consultants ...................................................... 168

Figures

Figure 2.4-1 Regional Map .............................................................................. 3
Figure 2.4-2 Vicinity Map ............................................................................. 4
Figure 2.4-3 Aerial Photograph and Surrounding Land Uses ..................... 5
Figure 3.1-1 Site Plan – Ground Level ........................................................... 7
Figure 4.4-1 Tree Location Map ................................................................. 39
Figure 4.11-1 Shade and Shadow Study – Existing Conditions ............... 110
Figure 4.11-2 Shade and Shadow Study – Project Conditions ................. 111
Figure 4.17-1: Existing Pedestrian Facilities ................................................................. 140
Figure 4.17-2: Existing Bicycle Facilities ................................................................. 141
Figure 4.17-3: Existing Transit Facilities ................................................................. 143

Photos
Photos 1 & 2 ................................................................................................................ 13
Photos 3 & 4 ................................................................................................................ 14
Photos 5 & 6 ................................................................................................................ 15
Photo 7 ....................................................................................................................... 16

Tables
Table 4.3-1: Health Effects of Air Pollutants .............................................................. 24
Table 4.3-2: Ambient Air Quality Standards Violations and Highest Concentrations .... 27
Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures ................. 29
Table 4.3-4: Operational Emissions for the Project ...................................................... 31
Table 4.3-5: Construction Emissions from the Project ................................................. 32
Table 4.4-1: Tree Survey ............................................................................................. 40
Table 4.4-2: City of San José Standard Tree Replacement Ratios ................................ 45
Table 4.6-1: Estimated Annual Energy Use of Proposed Development ....................... 62
Table 4.8-1: Annual Project GHG Emissions (MT of CO2e) ........................................ 80
Table 4.10-1: Pervious and Impervious Surfaces On-Site ........................................... 102
Table 4.13-1: Land Use Compatibility Guidelines for Community Noise in San José .... 115
Table 4.13-2: Effects of Vibration .............................................................................. 118
Table 4.17-1: Existing Bus Service Near the Project Site ............................................ 142
Table 4.17-2: Project Trip Generation Estimates ......................................................... 147

Appendices
Appendix A: California Estimator Model Run
Appendix B: Arborist Report
Appendix C: Soil Resource Report
Appendix D: Phase I Environmental Site Assessment
Appendix E: Local Transportation Analysis
SECTION 1.0  INTRODUCTION AND PURPOSE

1.1  PURPOSE OF THE INITIAL STUDY/ADDENDUM

The City of San José, as the Lead Agency, has prepared this Initial Study (IS)/Addendum for the 200 Park Avenue Office project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to construct a 20-story, 1,055,000 square foot office building with ground floor amenity space. This IS/Addendum evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.1.1  Downtown Strategy

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the Downtown area. The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy is necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program level.

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

1.2  NOTICE OF DETERMINATION

If the project is approved, City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk’s Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).
SECTION 2.0   PROJECT INFORMATION

2.1     PROJECT TITLE

200 Park Avenue Office Project

2.2     LEAD AGENCY CONTACT

Kara Hawkins, Planner I
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
(408) 535-7852

2.3     PROJECT APPLICANT

Jay Paul Company

2.4     PROJECT LOCATION

The 1.72-acre project site is located at the southeast corner of the Park Avenue and Almaden Boulevard intersection in downtown San José.

The project site is shown on the following figures:

Figure 2.4-1  Regional Map
Figure 2.4-2  Vicinity Map
Figure 2.4-3  Aerial Map

2.5     ASSESSOR’S PARCEL NUMBERS

259-43-076
259-43-077

2.6     GENERAL PLAN DESIGNATION AND ZONING DISTRICT

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

2.7     PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Architectural Review
- Demolition Permit
- Grading Permit(s)
- Building Permit(s)
- Site Development Permit
SECTION 3.0    PROJECT DESCRIPTION

3.1    PROJECT DESCRIPTION

3.1.1    Background Information

The approximately 1.72-acre project site is comprised of two parcels (APNs 259-43-076 and -077) located at the southeast corner of the Park Avenue and South Almaden Boulevard intersection, as shown on Figures 2.4-1, 2.4-2, and 2.4-3. The site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure. The site is designated Downtown under the City’s General Plan and has a zoning designation of DC – Downtown Commercial.

3.1.2    Proposed Development

As proposed, the project would demolish the Hyatt Place Hotel parking structure and construct a 20-story, 1,055,000 square foot office building (refer to Figure 3.1-1 for the site plan). The office building would consist of approximately 840,000 square feet of leasable office space on floors five to 19 (which includes 31,100 square feet of office/lobby space on the ground floor) and 16,900 square feet of enclosed mechanical equipment on the penthouse level. The rest of the building (approximately 198,100 square feet) would consist of above-grade parking on floors two to four. The proposed building would be approximately 300 feet tall with a floor area ratio (FAR) of 14.01. No pile driving is proposed.

Vehicular access to the site is currently provided via three driveways on South Almaden Boulevard and two driveways on Park Avenue. The project would retain one existing driveway along South Almaden Boulevard and remove the remaining four driveways. The proposed office building would include four levels of below-grade parking and three levels of above-grade parking. Parking for the Hyatt Hotel guests would also be provided within this parking structure. The project would be required to provide approximately 1,553 parking spaces for the proposed office and 82 parking spaces for the existing hotel, consistent with the City’s parking requirement. The project proposes a total of 1,755 parking spaces (125 for the Hyatt Hotel and 1,630 for the proposed development). Of the 1,630 parking spaces for office, 1,213 spaces would be valet. An on-site valet drop-off/pick-up area is proposed on the second floor. Stacked mechanical parking lifts would be provided within floors two to four.

Additionally, a project-specific Archaeological Resources Treatment Plan was prepared by Basin Research Associates and is proposed as part of the project. Refer to Section 4.5 for a summary of the measures.

3.1.3    Green Building Measures

The project would be required to be built in accordance with the California Building Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be designed to achieve LEED Gold certification consistent with San José Council Policy 6-32, though no specific building measures have been identified at this time.

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1 The FAR includes the square footage of the above-grade parking levels.
3.1.4 **Transportation Demand Management Program**

The project proposes the following transportation control measures (TCMs)\(^2\) as part of its transportation demand management (TDM) program:

- **Transit Measures**
  - Design and locate buildings to facilitate transit access

- **Bicycle Measures**
  - Provide secure, weather-protected bicycle parking for employees
  - Provide safe, direct access for bicyclists to adjacent bicycle routes
  - Provide showers and lockers for bicycling or walking to work

3.1.5 **Envision San José 2040 General Plan and Zoning Designation**

The site is designated *Downtown* under the City’s General Plan and has a zoning designation of *DC* – *Downtown Commercial*. The Downtown designation includes office, retail, service, residential, and entertainment uses in the Downtown. All developments within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Residential development within the Downtown designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum floor area ratio (FAR) of 30.0 and up to 800 dwelling units per acre.

Under the *DC* zoning designation, development shall only be subject to the height limitations necessary for the safe operation of Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements. Please refer to *Section 4.11, Land Use and Planning* for a complete discussion of the project’s consistency with the General Plan and zoning designations.

3.1.6 **Construction**

Construction of the proposed project would begin at the end of 2019 and end in 2022 for a period of 35 months. The project proposes extended construction hours which would include Monday to Saturday work from 6:00 AM to midnight and 24-hour construction operations on up to eight days over the course of the entire construction period to accommodate large concrete pours.

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SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

- **Checklist and Discussion of Impacts** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project’s impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.
4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 Regulatory Framework

State

Senate Bill 743

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

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

SB 743 also states that aesthetic impacts do not include impacts on historical or cultural resources. Further, it clarifies that local governments retain their ability to regulate a project’s transportation, aesthetics, and parking impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

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

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

Local

Municipal Code

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

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

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

City Design Guidelines and Design Review Process

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

City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development

The City adopted an Interim Lighting Policy to encourage the use of broad spectrum lighting such as LED for private streets, parking areas, and pedestrian areas as an alternative to low pressure sodium lights. Projects that met specific standards outlined in the Interim Policy regarding outdoor lighting plans, illumination levels, backlight, uplight, glare, correlated color temperature, and dimming qualify for a permit adjustment and an exception to the required use of low pressure sodium lighting on private development.

Envision San José 2040 General Plan

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

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or
entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

*Policy CD-1.12:* Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

*Policy CD-1.17:* Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking structures with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

*Policy CD-1.24:* Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

*Policy CD-4.9:* For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

### 4.1.1.2 Existing Conditions

#### Project Site

The project site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure (see Photo 1). The property is not landscaped, but there are some mature trees around the building.

The Hyatt Place Hotel parking structure is primarily concrete and is located immediately south of the commercial building’s surface lot. The parking structure has two levels of above-grade parking and one level of partially-below grade parking. There are exits to the parking structure located on the western and southern side of the building. There are black gates covering the openings of the garage. The western façade, along Almaden Boulevard, is landscaped and partially obscured by mature trees (see Photo 2).

#### Surrounding Land Uses

Development in the project area is a mix of commercial, entertainment venues, hotel, and office land uses, as well as a large park. The buildings in the vicinity of the project site vary in height from one to 13 stories and utilize a variety of architectural styles and building materials. Several visually distinctive buildings are located within the immediate project area.
Photo 1 - View of vacant lot, looking east from South Almaden Boulevard.

Photo 2 - View of existing development, looking east from South Almaden Boulevard.
Photo 3 - View of surrounding development, looking northwest from Park Avenue.

Photo 4 - View of surrounding development, looking northeast from Park Avenue.
Photo 5 - View of existing and surrounding development, looking south from the pedestrian paseo.

Photo 6 - View of surrounding development, looking southeast from South Almaden Boulevard Avenue.
Photo 7 - View of surrounding development, looking south from Park Avenue.
Located north of the project site is Park Avenue, a four-lane multi-directional roadway with a raised center median and a designated mid-block pedestrian crossing. There are four commercial buildings located north of Park Avenue. The westernmost building is a two-story building with modern Brutalist architectural design. The entrance to the building is located between two prominent cement columns on the southern façade and the signs located on the southwestern building façade have been removed (see Photo 3). East of this building is a six-story commercial building which is comprised of ground floor retail fronting a five-level parking structure. Located on the top floor of this commercial building is a restaurant. The most prominent feature is the elevator enclosure which appears as a tower with a large clock (see Photo 4). Adjacent to the six-story building is a three-story commercial building comprised of brown-tinted windows with thin vertical cement columns that run from the ground level to the bottom of the large eave. The easternmost building is two stories and comprised of two large cement wings on either side of a recessed entrance. The entrance is further defined by an arched pergola.

Immediately east of the project site is a pedestrian corridor (see Photo 5). There are lamps, shrubs, and trees located along this pedestrian corridor. East of the pedestrian corridor is a one-story public exhibit building (Parkside Hall). The building has minimalist modern design elements and unadorned stucco clad walls. The façade of Parkside Hall facing Park Avenue has no distinguishing architectural features and is visually obscured by mature trees. Located east of Parkside Hall is the Tech Museum and Cesar Chavez Park. The Tech Museum occupies the corner of South Market Street and Park Avenue. The museum is three stories and is primarily orange stucco with stone facing on the lower two feet of the building. The dome of the theatre inside the Tech Museum is visible above the roofline.

Located south of the project site is the Hyatt Hotel, a nine-story glass and stucco building (see Photo 6). The northern portion of the building that connects to the hotel is one-story. A stucco colonnade supported by square columns is prominently located on the northern building façade. The western building façade is primarily stucco with eight brown-tinted windows. There are metal awnings located along the western building façade with outdoor seating. There are stairs located along the western façade that provide access to the outdoor seating.

Located west of the site is South Almaden Boulevard, a four-lane divided arterial with a landscaped median. West of South Almaden Boulevard is the San José Center for Performing Arts, a three- to four-story irregular shaped building with external circular lights located along the upper and lower portions of the building. The building is primarily glass and stucco with gold-colored decorative shapes in front of the glass (see Photo 7). This building is set back from South Almaden Boulevard and Park Avenue by a courtyard, landscaping, and the sidewalk. Northwest of the project site is a 13-story office building that is irregularly shaped with decorative wall tiles and blue tinted windows. A covered pedestrian walkway is located along the southern building façade.

4.1.1.3 Scenic Views

Based on the City’s General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints, other than buildings, are limited. The project area has no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver
Creek hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

4.1.1.4  **Light and Glare**

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

4.1.2  **Impact Discussion**

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Have a substantial adverse effect on a scenic vista?</td>
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<td>☒</td>
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<td>2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
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<td>3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views(^5) 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?</td>
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<td>4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
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</table>

**Note:** Certain projects within transit priority areas need not evaluate aesthetics (Public Resources Code Section 21099).

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City’s design standards and implementation of those standards through the City’s design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community’s assessment of the aesthetics values of a project’s design, consistent with the assumptions in the Downtown Strategy 2040 FEIR. Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

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\(^5\) Public views are those that are experienced from publicly accessible vantage points.
Impact AES-1: The project would not have a substantial adverse effect on a scenic vista. [Same Impact as Approved Project (Less than Significant Impact)]

Impact AES-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. [Same Impact as Approved Project (Less than Significant Impact)]

The City’s General Plan defines scenic vistas or resources in the City as broad views of Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. The project site is flat and prominent views, other than buildings, are limited. The project site is located within a highly urbanized area with no designated scenic resources. In addition, the site is not located along a state-designated scenic highway. The nearest state designated highway is Route 9 located more than five miles southwest of the site. The construction of a 20-story office building would not diminish scenic views or damage any scenic resources in the project area; therefore, implementation of the project would not result in a substantial impact on any scenic vistas or resources. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact AES-3: The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings. The project is in an urbanized area and would not conflict with applicable zoning and other regulations governing scenic quality. [Same Impact as Approved Project (Less than Significant Impact)]

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

The proposed 20-story office building would be comparable in height to the Museum Place Mixed-Use development, a 24-story mixed-use building approved east of the site (File Nos. SP17-031 and T16-024), which the City deemed consistent with the visual character of the City. The proposed building and Museum Place Mixed-Use project would consist of glass building facades. In addition, the project would be consistent with the land use (office building) located northwest of the project site. The Downtown Strategy 2040 FEIR concluded that while new development and redevelopment would alter the appearance of the City, implementation of adopted policies and existing regulations would avoid substantial degradation of the visual character or quality of the City. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact AES-4: The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. [Same Impact as Approved Project (Less than Significant Impact)]

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

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

4.2.1 Environmental Setting

State

Farmland Mapping and Monitoring Program

The California Department of Conservation’s Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.6

4.2.1.1 Existing Conditions

The project site is located in a developed, urban area of San José. The Santa Clara County Important Farmlands 2014 Map designates the project site as “Urban and Built-Up Land.” Urban and Built-up Land is defined as land with at least six structures per 10 acres. Common examples of “Urban and Built-Up Land” are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses.7 There are no forest lands on or adjacent to the project site. The site is not subject to a Williamson Act contract.8

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6 Forest land is land that can support 10 percent native tree cover and allows for management of one or more forest resources, including timber, fish, wildlife, and biodiversity (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing a crop of trees used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land devoted to and used for growing and harvesting timber and other compatible uses (Government Code Section 51104(g)).


4.2.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) 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))?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4) Result in a loss of forest land or conversion of forest land to non-forest use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>5) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on agricultural and forest resources, as described below.

**Impact AG-1:** The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. [Same Impact as Approved Project (No Impact)]

**Impact AG-2:** The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. [Same Impact as Approved Project (No Impact)]

**Impact AG-3:** The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. [Same Impact as Approved Project (No Impact)]
<table>
<thead>
<tr>
<th>Impact AG-4:</th>
<th>The project would not result in a loss of forest land or conversion of forest land to non-forest use. [Same Impact as Approved Project (No Impact)]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact AG-5:</td>
<td>The project would not 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)]</td>
</tr>
</tbody>
</table>

The proposed project would result in construction of an approximately 1,055,000 square foot office tower with ground floor lobby space. The project would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to non-agricultural uses. The project would not conflict with existing zoning for agricultural operations or facilitate in the unplanned conversion of farmland elsewhere in San José to non-agricultural uses. The project site is not utilized as forest lands and would not result in the loss of forest lands in San José. For these reasons, the project would not result in impacts to agricultural or forest resources. [Same Impact as Approved Project (No Impact)]
4.3  AIR QUALITY

The following discussion is based, in part, on a California Emissions Estimator Model Run prepared by David J. Powers & Associates in October 2019. The report is attached as Appendix A.

4.3.1  Environmental Setting

4.3.1.1  Background Information

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O₃), nitrogen oxides (NOₓ), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SOₓ), and lead. Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

<table>
<thead>
<tr>
<th>Pollutants</th>
<th>Sources</th>
<th>Primary Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>O₃</td>
<td>Atmospheric reaction of organic gases with nitrogen oxides in sunlight</td>
<td>• Aggravation of respiratory and cardiovascular diseases</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Irritation of eyes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Cardiopulmonary function impairment</td>
</tr>
<tr>
<td>Nitrogen Dioxide (NO₂)</td>
<td>Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions</td>
<td>• Aggravation of respiratory illness</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Reduced visibility</td>
</tr>
<tr>
<td>Fine Particulate Matter (PM₂.₅) and Coarse Particulate Matter (PM₁₀)</td>
<td>Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions</td>
<td>• Reduced lung function, especially in children</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Aggravation of respiratory and cardiorespiratory diseases</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Increased cough and chest discomfort</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Reduced visibility</td>
</tr>
<tr>
<td>Toxic Air Contaminants (TACs)</td>
<td>Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products</td>
<td>• Cancer</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Chronic eye, lung, or skin irritation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Neurological and reproductive disorders</td>
</tr>
</tbody>
</table>

High O₃ levels are caused by the cumulative emissions of reactive organic gases (ROG) and NOₓ. These precursor pollutants react under certain meteorological conditions to form high O₃ levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area’s attempts to

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9 Please note the project proposes extended construction hours; therefore, the CalEEMod input includes six days of construction.

10 The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.
reduce O₃ levels. The highest O₃ levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM₁₀) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM₂.₅). Elevated concentrations of PM₁₀ and PM₂.₅ are the result of both region-wide emissions and localized emissions.

**Toxic Air Contaminants**

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).¹¹ Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

**Sensitive Receptors**

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. Cesar Chavez Park is located approximately 0.2 miles east of the project site and exposure to TACs and odor would occur on a temporary basis. There are no sensitive receptors that currently exist within the vicinity of the project site.

4.3.1.2 **Regulatory Framework**

**Federal and State**

**Clean Air Act**

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean

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Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O₃, CO, SOₓ, NOₓ, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Regional

2017 Clean Air Plan

The Bay Area Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state air quality standards would be met. BAAQMD’s most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.¹²

CEQA Air Quality Guidelines

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

Envision San José 2040 General Plan

The General Plan includes the following air quality policies applicable to the proposed 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-13.1:** Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

**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.

### 4.3.1.3 Existing Conditions

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

BAAQMD is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: carbon monoxide (CO), ozone (O₃), nitrogen dioxide (NO₂), and suspended particulate matter (PM₁₀ and PM₂.₅). These pollutants are considered criteria pollutants by the U.S. Environmental Protection Agency (U.S. EPA) and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. Table 4.3-2 shows violations of state and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2016-2018 period (the most recent years for which data is available).

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Standard</th>
<th>Days Exceeding Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2016</td>
</tr>
<tr>
<td><strong>SAN JOSÉ STATION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ozone</td>
<td>State 1-hour</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Federal 8-hour</td>
<td>0</td>
</tr>
<tr>
<td>Carbon Monoxide</td>
<td>Federal 8-hour</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>State 8-hour</td>
<td>0</td>
</tr>
<tr>
<td>Nitrogen Dioxide</td>
<td>State 1-hour</td>
<td>0</td>
</tr>
<tr>
<td>PM₁₀</td>
<td>Federal 24-hour</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>State 24-hour</td>
<td>0</td>
</tr>
<tr>
<td>PM₂.₅</td>
<td>Federal 24-hour</td>
<td>0</td>
</tr>
</tbody>
</table>


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13 PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.
“Attainment” status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area, as a whole, does not meet state or federal ambient air quality standards for ground level O₃ and PM₂.₅, nor does it meet state standards for PM₁₀. The Bay Area is considered in attainment or unclassified for all other pollutants.

4.3.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>2) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>3) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
</tbody>
</table>

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors. The Downtown Strategy 2040 FEIR did, however, identify a significant unavoidable cumulative regional air quality impact, as discussed in Section 4.21 Mandatory Findings.

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. [Same Impact as Approved Project (Less than Significant Impact)]

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-3 below, the proposed project would generally be consistent with the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.
<table>
<thead>
<tr>
<th>Control Measures</th>
<th>Description</th>
<th>Project Consistency</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Transportation Measures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trip Reduction Programs</td>
<td>Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.</td>
<td>The proposed development would be located in proximity to Caltrain, the Altamont Commuter Express (ACE) train, Amtrak, and the Santa Clara Valley Transportation Authority (VTA) light rail. In addition, the project would include bicycle parking consistent with City standards. The proposed project would be required to implement a TDM Program, consistent with the Downtown Strategy 2040. The project is consistent with this measure.</td>
</tr>
<tr>
<td>Bicycle and Pedestrian Access and Facilities</td>
<td>Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.</td>
<td>The project would include bicycle parking consistent with City standards. In addition, the project area is well equipped with pedestrian facilities including sidewalks and crosswalks. The project is consistent with this measure.</td>
</tr>
<tr>
<td>Land Use Strategies</td>
<td>Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.</td>
<td>The project would be located in proximity to multiple transit services; therefore, the project is consistent with this measure (refer to Section 4.17 Transportation for more information).</td>
</tr>
<tr>
<td><strong>Building Measures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Green Buildings</td>
<td>Identify barriers to effective local implementation of CalGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.</td>
<td>The project would comply with Building Energy Efficiency Standards (Title 24) and the City’s Green Building Ordinance and the most recent CALGreen requirements. The project is consistent with this measure.</td>
</tr>
<tr>
<td>Urban Heat Island Mitigation</td>
<td>Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing</td>
<td>The project would be required to comply with the City’s Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency</td>
</tr>
<tr>
<td>Control Measures</td>
<td>Description</td>
<td>Project Consistency</td>
</tr>
<tr>
<td>------------------</td>
<td>-------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>resurfacing.</td>
<td>Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.</td>
<td>over standard construction. In addition, parking would be located within the proposed building and would not contribute to the heat island effect. Therefore, the project is consistent with this control measure.</td>
</tr>
</tbody>
</table>

**Natural and Working Lands Measures**

| Urban Tree Planting | Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District’s technical guidance, best management practices for local plans, and CEQA review. | The project would be required to adhere to the City’s tree replacement policy. Therefore, the project is consistent with this control measure. |

**Waste Management Measures**

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

The project is consistent with applicable transportation, building, natural and working lands, and waste management control measures identified in the table above and is consistent with the City’s General Plan. The project would not result in a significant impact related to consistency with the 2017 CAP. [Same Impact as Approved Project (Less Than Significant Impact)]
BAAQMD developed screening criteria by land use type to provide a conservative indication of whether a project would result in potentially significant criteria pollutant impacts. The screening size for a “General Office Building” land use type is 346,000 square feet.\textsuperscript{14} The proposed project would result in the construction of a 20-story building with approximately 840,000 square feet of leasable office space, which exceeds the screening size but is part of the planned growth included in the Downtown Strategy 2040. Table 4.3-4 shows an estimate of daily from operation of the proposed project using the California Emissions Estimator Model (CalEEMod). Full operation of the site was assumed to occur in year 2022.

<table>
<thead>
<tr>
<th>Description</th>
<th>ROG</th>
<th>NO\textsubscript{x}</th>
<th>PM\textsubscript{10}</th>
<th>PM\textsubscript{2.5}</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022 Project Operational Emissions (tons/year)</td>
<td>4.6</td>
<td>3.6</td>
<td>1.7</td>
<td>0.5</td>
</tr>
<tr>
<td>BAAQMD Thresholds (tons/year)</td>
<td>10</td>
<td>10</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>Threshold Exceeded?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Operational criteria pollutant emissions associated with the proposed project, when considered individually, would not result in emissions above established thresholds. The project, however, is part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from the full build out evaluated in the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. To reduce emissions associated with vehicle travel, future development with the downtown area would be required to implement a TDM plan, consistent with the Downtown Strategy 2040 FEIR. Refer to Section 3.1.4 Transportation Demand Management Program for a list of proposed TCMs. The project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040. \textbf{[Same Impact as Approved Project (Significant Unavoidable Impact)]}

**Operational Emissions – Carbon Monoxide Emissions**

CO emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high localized concentrations of CO. Air pollutant monitoring data indicate that CO levels have been below state and federal standards in the Bay Area since the early 1990s, therefore, Santa Clara County is in attainment for CO. Furthermore, the addition of project trips would not cause any intersections to exceed BAAQMD’s screening criteria of 44,000 vehicles per hour. The proposed project would generate approximately 5,356 new daily trips\textsuperscript{15}, which is insufficient to increase the traffic volume at any local intersection above the threshold. Implementation of the project would not result in significant CO emission impacts. \textbf{[Same Impact as Approved Project (Less Than Significant Impact)]}


\textsuperscript{15} Hexagon Transportation Consultants, Inc. 200 Park Avenue Office Development LTA. September 26, 2019.
Construction Criteria Pollutant Emissions

As with operational impacts, BAAQMD developed screening criteria to provide a conservative indication of whether construction activities associated with a project would result in potentially significant criteria pollutant impact. For construction-related emissions, the screening size for “General Office Building” land use type is 277,000 square feet. The proposed project would exceed the screening size for office development; therefore, CalEEMod was used to estimate daily air emission from project construction. It was assumed that the project would be built over a 35 month period starting September 2019 (approximately 899 construction workdays). The CalEEMod results are shown in Table 4.3-5 below.

<table>
<thead>
<tr>
<th>Description</th>
<th>ROG</th>
<th>NOx</th>
<th>PM10</th>
<th>PM2.5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Daily Emissions</td>
<td>13.0</td>
<td>28.0</td>
<td>0.7</td>
<td>0.6</td>
</tr>
<tr>
<td>BAAQMD Thresholds</td>
<td>54</td>
<td>54</td>
<td>82</td>
<td>54</td>
</tr>
<tr>
<td>Exceeds Threshold?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

As shown above, construction period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds. Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. [Same Impact as Approved Project (Less Than Significant Impact)]

**Impact AIR-2:** The project would not 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. [Less Impact than Approved Project (Significant Unavoidable Impact)]

The Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of ozone standards. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding BAAQMD’s significance thresholds (refer to Impact AIR-1), it would contribute to the previously identified significant air quality impacts resulting from full build out of the Downtown Strategy 2040. To reduce emissions associated with vehicle travel, future development would be required to implement a TDM program (refer to Section 3.1.4 Transportation Demand Management Program for a list of proposed TCMs). The project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. [Less Impact than Approved Project (Significant Unavoidable Impact)]

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17 Assumes six days per week of construction.
Impact AIR-3: The project would not expose sensitive receptors to substantial pollutant concentrations. [Same Impact as Approved Project (Less than Significant Impact)]

Dust Generation

Construction activities on-site would generate dust and other particulate matter that could temporarily impact nearby land uses. Consistent with City policies, mitigation measures, and measures identified in the Downtown Strategy 2040 FEIR, the project would implement the following measures during all phases of construction to reduce dust and other particulate matter emissions.

Required Downtown Strategy 2040 FEIR Measures:

- 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 miles-per-hour (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 five 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 Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the required Downtown Strategy measures, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. [Same Impact as Approved Project (Less Than Significant Impact)]

Community Risk Impacts – Toxic Air Contaminants

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (DPM), organic TACs from all vehicles, and PM2.5, which is a regulated air pollutant. There are no sensitive receptors located within 1,000 feet; therefore, no project-specific analysis of construction TACs would be required. The proposed project would result
in a less than significant community risk impact due to construction activities. [Same Impact as Approved Project (Less Than Significant Impact)]

Criteria Pollutant Emissions

In a 2018 decision (Sierra Club v. County of Fresno), the state Supreme Court determined that CEQA requires that when a project’s criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project’s emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project’s individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project’s individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

The proposed project would result in a less than significant operational and construction criteria pollutant impact as discussed in Impact AIR-1. Therefore, the project would result in a less than significant health impact to sensitive receptors. (New Less than Significant Impact)

Extended Construction Hours

Municipal Code Section 20.100.450 establishes the allowable hours of construction within 500 feet of a residential unit. Specifically, 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 AM or after 7:00 PM, Monday through Friday, or at any time on weekends.

The project proposes extended construction hours which would include Monday to Saturday work from 6:00 AM to midnight and 24-hour construction operations on up to eight days to accommodate large concrete pours. The project site is located more than 1,000 feet from the nearest residential units and, therefore, would not be restricted by Municipal Code Section 20.100.450. In addition, as shown in Table 4.3-5, construction of the project over a 35-month period with the extended construction hours would have a less than significant impact from criteria pollutant emissions. Therefore, the extended construction hours would not expose sensitive receptors to substantial pollutant concentrations. (New Less than Significant Impact)

<table>
<thead>
<tr>
<th>Impact AIR-4:</th>
<th>The project would not 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)]</th>
</tr>
</thead>
</table>

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. The odor emissions may be noticeable from time to time by adjacent
receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. [Same Impact as Approved Project (Less Than Significant Impact)]
4.4 BIOLOGICAL RESOURCES

The following discussion is based on an Arborist Report prepared by H.T. Harvey & Associates in July 2018. The report is attached as Appendix B this document.

4.4.1 Environmental Setting

4.4.1.1 Regulatory Framework

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

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

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

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Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

**Regional and Local**

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

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was approved in 2013 and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

**Tree Removal Ordinance**

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

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

**Envision San José 2040 General Plan**

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

*Policy CD-1.23:* Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

*Policy CD-1.25:* Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
**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 of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

**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.

### 4.4.1.2 Existing Conditions On-Site

#### Special Status Species

The project site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure and is located within an urbanized area of downtown San José. There are no sensitive habitats or wetlands on or adjacent to the site. Habitats in developed areas, such as the project site, are low in species diversity and include predominately urban adapted birds and animals. Most special status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats.

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

#### Trees

There are a total of 68 trees located on and adjacent to the project site. Of the 68 trees, there are 16 street trees and 18 ordinance-sized trees. The following table lists the trees identified in the tree survey prepared by *H.T. Harvey & Associates* in July 2018. The location of trees is shown on Figure 4.4-1.

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20 Please note Tree Nos. 1 through 68 are labeled as Tree Tags 3305 through 3372 in the Arborist Report.
Tree Locations
Ordinance Sized Tree
Project Boundary

TREES LOCATION MAP

200 Park Avenue Office Project
City of San José

Initial Study/Addendum
October 2019
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Scientific Name</th>
<th>Common Name</th>
<th>Circumference in Inches</th>
<th>Diameter in Inches</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Eucalyptus sideroxylon</em></td>
<td>Red ironbark</td>
<td>33</td>
<td>10.5</td>
</tr>
<tr>
<td>2</td>
<td><em>Gleditsia triacanthos 'inermis'</em></td>
<td>Thornless honey locust</td>
<td>28.2</td>
<td>9</td>
</tr>
<tr>
<td>3</td>
<td><em>Gleditsia triacanthos 'inermis'</em></td>
<td>Thornless honey locust</td>
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<td>7</td>
</tr>
<tr>
<td>4</td>
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<td>Thornless honey locust</td>
<td>41</td>
<td>13</td>
</tr>
<tr>
<td>5</td>
<td><em>Callistemon viminalis</em></td>
<td>Weeping bottlebrush</td>
<td>12.5</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td><em>Washingtonia robusta</em></td>
<td>Mexican fan palm</td>
<td>66</td>
<td>21</td>
</tr>
<tr>
<td>7</td>
<td><em>Washingtonia robusta</em></td>
<td>Mexican fan palm</td>
<td>63</td>
<td>20</td>
</tr>
<tr>
<td>8</td>
<td><em>Washingtonia robusta</em></td>
<td>Mexican fan palm</td>
<td>66</td>
<td>21</td>
</tr>
<tr>
<td>9</td>
<td><em>Eucalyptus sp.</em></td>
<td><em>Eucalyptus sp.</em></td>
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<tr>
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<td>London plane</td>
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<tr>
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<td>10</td>
</tr>
<tr>
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<td><em>Fraxinus pennsylvanica</em></td>
<td>Green ash</td>
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<tr>
<td>18</td>
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<tr>
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<td>Coast redwood</td>
<td>38</td>
<td>12</td>
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<tr>
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<td>Glossy privet</td>
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<td>31</td>
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<td><em>Ulmus parvifolia</em></td>
<td>Chinese elm</td>
<td>28.2</td>
<td>9</td>
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<tr>
<td>33</td>
<td><em>Platanus hybrida</em></td>
<td>London plane</td>
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<tr>
<td>34</td>
<td><em>Ulmus parvifolia</em></td>
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<td>35</td>
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<td>Chinese elm</td>
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<td><em>Washingtonia robusta</em></td>
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</tbody>
</table>
### Table 4.4-1: Tree Survey

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Scientific Name</th>
<th>Common Name</th>
<th>Circumference in Inches</th>
<th>Diameter in Inches</th>
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</thead>
<tbody>
<tr>
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**Notes**: Ordinance-sized trees are 38+ inches in circumference (12.1+ inches in diameter)

1Tree No. 1 was listed in the Arborist Report of having a diameter of 10 and 11. The average of the two measurements was used for this analysis.

** denotes street trees.

Bold denotes ordinance-sized trees.

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### 4.4.2 Impact Discussion

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<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
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Would the project:

1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?
Impact BIO-1:
The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. [Same Impact as Approved Project (Less than Significant Impact)]

Impacts to Nesting Migratory Birds

There are currently 68 trees on and adjacent to the project site, including 18 ordinance-sized trees. The trees could provide nesting and/or foraging habitat for migratory birds. Migratory birds, like
nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines “taking” as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. The following measures shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests, consistent with the Downtown Strategy 2040 FEIR.

**Required Downtown Strategy 2040 FEIR Measures:**

- Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).
- If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.
- The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director’s designee.

With implementation of the identified measures, the project’s impact to nesting birds and raptors would be less than significant. [Same Impact as Approved Project (Less Than Significant Impact)]

| Impact BIO-2: | The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. [Same Impact as Approved Project (Less than Significant Impact)] |

The majority of downtown San Jose is developed with buildings, pavement, and landscaping. Natural habitats are located within approximately 9,000 linear feet of the Guadalupe River and 3,750 linear feet of Los Gatos Creek that pass through the City.21 The project site is located approximately 0.4 mile east of Los Gatos Creek and approximately 0.1 mile east of Guadalupe River. The Downtown Strategy 2040 FEIR concluded that impacts to developed habitats resulting from proposed activities...
development under the General Plan would be less than significant because of their abundance within
the region and state, and the relatively low value of these habitats for biological resources compared
to more natural habitats. As a result, implementation of the project would not adversely affect any
riparian habitat or other sensitive natural community. [Same Impact as Approved Project (Less
Than Significant Impact)]

Impact BIO-3: The project would not have a substantial adverse effect on state or federally
protected wetlands through direct removal, filling, hydrological interruption, or other means. [Same Impact as Approved Project (Less than Significant Impact)]

The site is not located adjacent to either waterway nor are there federally protected wetlands, as
defined by Section 404 of the Clean Water Act (CWA), located on the project site. The proposed
project would not have a substantial adverse effect on any wetland habitat. [Same Impact as
Approved Project (Less Than Significant Impact)]

Impact BIO-4: The project would not interfere substantially with the movement of any native
resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife
nursery sites. [Same Impact as Approved Project (Less than Significant Impact)]

The project site is currently developed and no natural habitat exists on-site that would support
endangered, threatened, or special status wildlife species. The project site is not used as a wildlife
corridor by any native resident or migratory fish or wildlife species. Therefore, the proposed project
would not interfere with the movement of any fish or wildlife species. [Same Impact as Approved
Project (Less than Significant Impact)]

Impact BIO-5: The project would not 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)]

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

As mentioned previously, there are a total of 68 trees on and adjacent to the site, 16 of which are
street trees. For the purposes of this analysis, it is assumed that all trees surveyed would be removed.
None of the trees on or adjacent to the site are native. Consistent with the General Plan, any tree
removed as a result of the project would be required to be replaced in accordance with all applicable
laws, policies or guidelines, including:
In addition, the project would be required to implement the following measures consistent with the Downtown Strategy 2040 FEIR.

**Required Downtown Strategy 2040 FEIR Measures:**

The project will be required to implement the following measures:

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

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

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

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

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

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

In accordance with City policy, tree replacement would be implemented as shown in Table 4.4-2.

Eighteen trees would be replaced at a 4:1 ratio and 45 trees would be replaced at a 2:1 ratio with 15-gallon containers. The remaining five trees would be replaced at a 1:1 ratio with 15-gallon containers. The total number of trees required to be planted on-site would be 167. The proposed project would be required to meet the tree replacement requirements as noted above. The Downtown Strategy 2040 FEIR concluded that compliance with local laws, policies and guidelines would reduce impacts to the urban forest to a less than significant level. [Same Impact as Approved Project (Less Than Significant Impact)]
Impact BIO-6: The project would not 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)]

Based on the Habitat Agency Geobrowser, the project site is within the SCVHP area. Private development in the SCVHP area is subject to the requirements of the SCVHP if it meets the following criteria:

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

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

Standard Permit Condition:

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) which are payable to the City of San José. The project applicant shall pay all required SCVHP fees prior to issuance of a grading permit. The project applicant shall submit a SCVHP Coverage Screening Form or Nitrogen Deposition Only Application Form (if no land cover fees apply) to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and shall complete all required subsequent forms, reports, and/or studies as specified in the SCVHP.

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23 Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San Jose planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in “pockets” of unincorporated land inside the cities’ urban growth boundaries).
With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. [Same Impact as Approved Project (Less Than Significant Impact)]
4.5 CULTURAL RESOURCES

The following discussion is based upon a Literature Search completed by Holman & Associates in June 2016. A copy of the Archaeological Literature Review is on file at the Department of Planning, Building and Code Enforcement. The following discussion is also based on a site-specific Archaeological Resources Treatment Plan prepared by Basin Research Associates. A copy of the Archaeological Resources Treatment Plan is on file at the Department of Planning, Building and Code Enforcement.

4.5.1 Environmental Setting

4.5.1.1 Regulatory Framework

Federal and State

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

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

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

_Policy ER-10.1:_ For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

_Policy ER-10.2:_ Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

_Policy ER-10.3:_ Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.2 _Existing Conditions_

4.5.2.1 _Subsurface Resources_

_Prehistoric Period_

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

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

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The project site is located approximately 0.1 mile east of Guadalupe River.

Based on the literature search completed for the project site, the site is located within an identified archaeological site (Site CA-SCL-128/H). Site CA-SCL-128/H has been recorded at least seven times. This site was first recorded in September 1973 on a nearby site. A large prehistoric deposit and

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24 For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.
over 57 Native American burials were found and the site was nominated for listing under the NRHP in 1982. Based on the literature search, Site CA-SCL-128/H has a current NRHP status of 2S2 which is defined as an “Individual property determined eligible for National Register by a consensus through Section 106 process. Listed in California Register of Historical Resources.”

**Mission Period**

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

The pueblo was originally located near the old San José City Hall. Because the location was prone to flooding, the pueblo was relocated in the late 1780’s or early 1790’s south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The project site is located approximately 0.3 miles southwest of the second pueblo.

**4.5.2.2 Existing Structures On and Adjacent to the Project Site**

**Structures On-Site**

The project site is currently developed with a vacant lot and the Hyatt Hotel parking structure. The parking structure was constructed in 1974, making the parking structure over 40 years old.

**Adjacent Structures**

There are three historic resources located within the project vicinity. The San José Center for Performing Arts and the City National Civic are both listed in the City Historic Resources Inventory as a Candidate City Landmark and a Candidate Landmark Structure, respectively. In addition, the project site is located across Park Avenue from a building that formerly housed the Santa Clara County Superior Family Court. The Family Court building was surveyed in 2000 and is currently listed in the City’s Historic Resources Inventory as a Candidate City Landmark.

**4.5.3 Impact Discussion**

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Would the project:

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

2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?

3) Disturb any human remains, including those interred outside of dedicated cemeteries?

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

**Impact CUL-1:** The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. [Same Impact as Approved Project (Less than Significant Impact)]

**Impacts to On-Site Structure**

As mentioned previously, the project site is currently developed with a vacant lot and the Hyatt Hotel parking structure. The parking structure was constructed in 1974 and is not considered a historic resource. In addition, the parking structure is not currently listed in the City’s Historic Resources Inventory. For these reasons, demolition of the existing structure on-site would result in a less than significant impact. [Same Impact as Approved Project (Less Than Significant Impact)]

**Construction Impacts to Historic Structures**

The site is near the San José Center for Performing Arts, the old Santa Clara County Superior Family Court building, and the City National Civic which are both considered historic. The proposed project would result in ground disturbance due to demolition of the existing building and parking structure, grading, trenching, excavation for the underground parking structure, and construction of the project. Jackhammers typically generate vibration levels of 0.035 in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. As mentioned in Section 4.13, Noise, the nearest historic building is located approximately 160 feet north of the project site (the old Santa Clara County Superior Family Court building). Due to the project being a distance of more than 25 feet from a historic structure, construction activities associated with the project would fall below the vibration limit of 0.08 in/sec PPV for historic structures. Therefore, construction activities associated with the project would have a less than significant impact on nearby historic structures. [Same Impact as Approved Project (Less Than Significant Impact)]
Impact CUL-2: The project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. [Same Impact as Approved Project (Less than Significant Impact)]

Impact CUL-3: The project would not disturb any human remains, including those interred outside of dedicated cemeteries. [Same Impact as Approved Project (Less than Significant Impact)]

Prehistoric and Historic Resources

Policy ER-10.1 of the General Plan states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. The project site is located within Site CA-SCL-128/H which is known to contain prehistoric and historic cultural resources. The entire project site would be excavated to a depth of approximately 46 feet to accommodate the four-story below-grade parking structure. As a result, any subsurface resources on-site would be disturbed.

Consistent with the Downtown Strategy 2040 FEIR, the following standard measures shall be applied to the project to reduce and avoid impacts to as yet unidentified archaeological resources:

- **Appropriate Prior Review.** For projects involving ground-disturbing activities, the City shall require preparation of a site-specific archaeological resources report to address the potential for archaeological resources to be affected by the project, unless sufficient documentation exists to make such a report unnecessary. At a minimum, this effort shall include a records search at the Northwest Information Center (NWIC) and a field inventory. The report shall be prepared by a qualified archaeologist. The report may recommend archaeological monitoring during construction.

- **Stop Work and Evaluate Unanticipated Finds.** If buried cultural deposits are encountered during project activities, all work within 50 feet of the find shall be redirected. A qualified archaeologist shall: (1) evaluate the find to determine if it meets the CEQA definition of a historical or archaeological resource; and (2) provide project-specific recommendations regarding the disposition of the find. The results of any archaeological investigation shall be submitted to the NWIC.

If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation. If the find does meet the definition of a historical or archaeological resource, then it must be avoided by project activities. Avoidance can be accomplished through redesign, conservation easements, or site capping.

If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the evaluating archaeologist. Upon completion of
the archaeological evaluation, a report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the NWIC.

- **Dignified and Respectful Treatment.** An important aspect of the consultation process is a dignified and respectful treatment of TCRs. As part of mitigation measure requirements, the City may request inclusion of an Archaeological Monitoring Contractor Awareness Education Program.

- **Determine Mitigation Measures.** When avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the evaluating archaeologist. Upon completion of the archaeological evaluation, a report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the NWIC.

- **Authorize Data Recovery and Curation.** To mitigate potential impacts to the buried resources and as part of (6 and) above, a data recovery program or a Tribal Cultural Resources Treatment Plan should be prepared by an approved archaeologist for review by the City. The data recovery shall involve implementation of surface collection and curation/repatriation of artifacts to prevent looting. All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the NWIC.

- **Follow Statutory Procedures if Human Remains are Encountered.** Pursuant to Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the remains are of Native American origin, the Coroner shall notify the Native American Heritage Commission (NAHC) who shall attempt to identify descendants of the deceased Native American to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist shall recover scientifically valuable information, as appropriate and in accordance with the recommendations of the Native Americans. Upon completion of analysis, as appropriate, the archaeologist shall prepare a report documenting the methods and results of the investigation. This report shall be submitted to the NWIC. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- **Maintain Confidentiality.** As required under Public Resources Code Section 21084.3, protect the confidentiality of the resources. The Tribal Cultural Resources Treatment Plan Report and all pertinent data and results shall be subject to the confidentiality as an exception to the Public Resources Act and will not be available for public review or distribution. The site of any reburial of Native American human remains shall be kept confidential and not be disclosed pursuant to the California Public Records Act, California Government Code §§
6254.10, 6254(r). The County Medical Examiner shall also withhold public disclosure of information related to such reburials pursuant to the exemption set forth in California Government Code § 6254.5(e).

Even with implementation of the standard measures listed above, the site-specific archaeological resources report identified the potential for archaeological resources to be found on-site. Given the location of the site, and the known historic development of the project area, the project has a high probability of uncovering as yet unrecorded archaeological resources.

Additionally, a project-specific Archaeological Resources Treatment Plan was prepared by Basin Research Associates and is included as part of the proposed project. The project shall, as a Condition of Project Approval, comply with the treatment plan which includes preparation of an archaeological monitoring program to be implemented during construction, compliance with monitoring protocols, post-review and recordation of any finds on-site, implementation of protection measures in the event human remains are discovered, and project documentation and reporting of process and finds (if any).

With implementation of the standard measures and Archaeological Resources Treatment Plan, impacts to unknown subsurface cultural resources would be less than significant. [Same Impact as Approved Project (Less Than Significant Impact)]
4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 Regulatory Framework

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California’s energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.25

California Green Building Standards Code

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior

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passenger cars and other vehicles, as well as saving the consumer money through fuel savings.26

Regional and Local

Climate Smart San José

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

- Transition to a renewable energy future
- Embrace our California climate
- Densify our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

Sustainable City Strategy

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

Municipal Code

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

Envision San José 2040 General Plan

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

Policy MS-1.1: Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.

Policy MS-2.3: Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-3.1: Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.

Policy MS-5.5: Maximize recycling and composting from all residents, businesses, and institutions in the City.

Policy MS-6.5: Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.

Policy MS-6.8: Maximize reuse, recycling, and composting citywide.

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

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

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

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

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

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

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

Policy MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

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

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

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.

Policy TR-1.4²⁷: Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

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

²⁷ Policy TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.
contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 Existing Conditions

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available. Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. 28 This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2017, a total of approximately 17,190 gigawatt hours (GWh) of electricity was consumed in Santa Clara County. 29

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

Natural Gas

PG&E provides natural gas services to the Downtown area. In 2017, approximately 1.4 percent of California’s natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada. 30 In 2016, residential and commercial customers in California used 29 percent of the state’s natural gas, power plants used 32 percent, and the industrial sector used 37 percent. 31 Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately 3.5 percent of the state’s total consumption of natural gas. 32

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Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California. The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018. Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.

4.6.1.3 Energy Use by Existing Development

The project site is currently developed with the Hyatt Place Hotel parking structure. For the purposes of this analysis, it is assumed that the project site does not currently have any energy demand. Therefore, the calculations utilized in the analysis were conservatively estimated.

4.6.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

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

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Impact EN-1: The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, during project construction or operation. [Same Impact as Approved Project (Less than Significant Impact)]

Impact EN-2: The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. [Same Impact as Approved Project (Less than Significant Impact)]

Estimated Energy Use of the Proposed Project

The proposed project would construct approximately 840,000 square feet of leasable office space. The following table summarizes the estimated energy use of the proposed project.

<table>
<thead>
<tr>
<th>Development</th>
<th>Electricity Use (kWh)</th>
<th>Natural Gas Use (kBtu)</th>
<th>Gasoline Use (gallons per year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enclosed Parking with Elevator</td>
<td>1,758,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>General Office Building</td>
<td>14,977,200</td>
<td>13,750,800</td>
<td>174,373</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>16,735,200</strong></td>
<td><strong>13,750,800</strong></td>
<td><strong>174,373</strong></td>
</tr>
</tbody>
</table>


Construction

The proposed project would be constructed over a period of 35 months starting in 2019 and ending in 2022. Construction activities would include demolition, site preparation, grading, building construction, and paving. The proposed project includes several measures that would improve the efficiency of the construction process. Implementation of the City’s Standard Permit Conditions detailed under Impact AIR-3, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage approximately 75 percent of construction waste as part of its LEED Gold certification and compliance with the City’s Construction and Demolition Diversion Program.

Energy is consumed during construction because the use of fuels and building materials are fundamental to construction of new buildings. However, energy would not be wasted or used inefficiently by construction equipment and waste from idling would be further reduced with implementation of the Standard Permit Conditions as listed under Impact AIR-3. (Less Than Significant Impact)

Operation

The proposed project would be required to be built in accordance to CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Though the

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37 \[\frac{4,341,881 \text{ annual VMT}}{24.9 \text{ mpg}} = 174,373 \text{ gallons of gasoline annually.}\]
proposed project does not include on-site renewable energy resources, the proposed project would be built to achieve LEED Gold certification consistent with San José’s Council Policy 6-32.

The proposed project would be required to provide a total of 179 bicycle parking spaces (144 short-term and 35 long-term bicycle parking spaces), consistent with the City’s bicycle parking requirement. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing state energy standards. **(Less Than Significant Impact)**
4.7 GEOLOGY AND SOILS

The following discussion is based upon a Soil Resource Report generated from the Natural Resources Conservation Service’s website in May 2018. A copy of the report is attached in Appendix C.

4.7.1 Environmental Setting

4.7.1.1 Regulatory Framework

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the current version is the 2016 CBC.

Public Resources Code Section 5097.5

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

**Local**

**City of San José Policies**

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

**Envision San José 2040 General Plan**

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from development projects with the City. The proposed project would be subject to the geology and soil policies listed in the City’s General Plan, including the following policies:

*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 habitat 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 15 and April 15.
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.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

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.

4.7.2 Existing Conditions

Geology and Soils

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface. The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains. Soil types in the area include clay in the low-lying central areas, loam and gravelly loam in the upper portions of the valley and eroded rocky clay loam in the foothills.

Soils on-site are comprised primarily of the Urbanland-Campbell complex. The soils in the project area contain weak soil layers with a moderate to very high expansion potential.

Seismicity and Seismic Hazards

<table>
<thead>
<tr>
<th>Fault</th>
<th>Distance from Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hayward</td>
<td>10.6 miles northeast</td>
</tr>
<tr>
<td>Calaveras</td>
<td>9.5 miles east</td>
</tr>
<tr>
<td>San Andreas</td>
<td>11.6 miles west</td>
</tr>
</tbody>
</table>

Table 4.7-1: Active Faults Near the Project Site

The project site is located within the seismically active San Francisco Bay Region. The project site is not within a defined Alquist-Priolo Earthquake Fault Zone and no active faults have been mapped on-site. Therefore, the risk of fault rupture at the site is low. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site. Active faults near the project site are shown above in Table 4.7-1.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the Santa Clara County Geologic Hazard Zones Map, the project area is located in a potential liquefaction zone.\(^{38}\)

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. The nearest waterway to the project site is Guadalupe River, located approximately 0.1 mile west. At this distance, the potential for lateral spreading is low.

Landslides

Based on the Santa Clara County Geologic Hazard Zone Map, the project site is not located within a potential landslide zone. The project area is relatively flat, therefore, the probability of landslides occurring on-site during a seismic event is low.

Groundwater

Groundwater at the project site has been encountered at a depth ranging from approximately 15 to 25 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

4.7.3 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>– 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)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>– Strong seismic ground shaking?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>– Seismic-related ground failure, including liquefaction?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>– Landslides?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

39 Ibid.
Would the project:

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

| Impact GEO-1: | The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. [Same Impact as Approved Project (Less than Significant Impact)] |

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

| Impact GEO-3: | The project would not 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 (Less than Significant Impact)] |

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?  

| Impact GEO-4: | The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. [Same Impact as Approved Project (Less than Significant Impact)] |

f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

Similar to the site development evaluated in the Downtown Strategy 2040, the proposed project would result in less than significant geology and soils impacts, as described below.
Geological Impacts from the Project

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

The site is located within an area with moderate to very high soil expansion potential. Consistent with the General Plan and current standard practices in the City of San José, the project proposes to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

**Standard Permit Conditions:**

- Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, lime treat soils, and to design and construct improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.

- The project shall be constructed in conformance with the recommendation of the design-level geotechnical investigation, which will be reviewed and approved by the City Geologist. The project would be built using standard engineering and seismic safety design techniques and shall meet the requirements of the 2016 California Building Code (CBC), or subsequent adopted codes. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk of life or property to the extent feasible and in compliance with the CBC.

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

**Groundwater**

As mentioned previously, groundwater levels on-site range from 15 to 25 feet bgs. The proposed project would be excavated to a depth of approximately 46 feet bgs for the four levels of below-grade parking structure. Because excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction. Please refer to **Section 4.9 Hazards and Hazardous Materials** for more information.

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

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

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

Impact GEO-2: The project would not result in substantial erosion or the loss of topsoil. [Same Impact as Approved Project (Less than Significant Impact)]

The proposed project would result in ground disturbance due to demolition of the existing building and parking structure, grading, trenching, excavation for the underground parking structure, and construction of the project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

The City’s NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions:

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

Since the proposed project would comply with the identified Standard Permit Conditions and applicable City policies related to erosion, the proposed project would have a less than significant erosion impact. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact GEO-5: The project would not 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. [Same Impact as Approved Project (Less than Significant Impact)]

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. [Same Impact as Approved Project (Less than Significant Impact)]
The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. [Same Impact as Approved Project (Less than Significant Impact)]

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

The project proposes three levels of below-grade parking, requiring the entire site to be excavated to a depth of approximately 46 feet. At this depth, the project 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 City 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:

- The City shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.

- If vertebrae fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can 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 City will be responsible for ensuring that the project sponsor implements the recommendations of the paleontological monitor regarding treatment and reporting. A report of all findings shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement.

Because the proposed project would comply with the applicable City policies and regulatory programs related to paleontological resources, implementation of the proposed project would have a less than significant paleontological resources impact. [Same Impact as Approved Project (Less Than Significant Impact)]
4.7.4 Non-CEQA Effects

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

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the City of San José’s Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

As mentioned previously, the project site contains soil with moderate to very high expansion potential. The site is located within a potential liquefaction zone and is also located within a region capable of generating earthquakes larger than 6.7 in magnitude.

The proposed project would be required to be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent CBC requirements (consistent with General Plan Policy EC-3.1). The Downtown Strategy 2040 concluded that adherence to the CBC and applicable General Plan policies would reduce seismic related issues and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous conditions on-site. Because the proposed project would comply with the design-specific geotechnical report, most recent CBC requirements, and regulations identified in the Downtown Strategy 2040 FEIR that ensure geologic hazards are adequately addressed, the project would be consistent with General Plan Policies EC-3.1, EC-4.2, and EC-4.4.
4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based on a California Emissions Estimator Model Run prepared by David J. Powers & Associates in October 2019. The report is attached as Appendix A.

4.8.1 Environmental 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 is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are CO2, methane (CH4), nitrous oxide (N2O), and fluorinated compounds. 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.

4.8.1.1 Regulatory Framework

State

Global Warming Solutions Act

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

In 2016, Senate Bill 32 (SB 32) was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO2e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO2e.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

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

Advanced Clean Cars Program

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

Regional

Bay Area 2017 Clean Air Plan

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards would be met. BAAQMD’s most recently adopted plan is the 2017 CAP. The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

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

Local

City of San José Municipal Code

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

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

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

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

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City’s GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the 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 outlined in the CEQA Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City’s GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of 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.

The primary test for consistency with the City’s GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project’s consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted state of California Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the Downtown Strategy 2040 FEIR. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City’s identified 3.04 metric tons (MT) CO2e/service population efficiency metric for 2035. An additional reduction of 5,392,000 MT CO2e per year would be required for the projected service population to meet the City’s target for 2035.41

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41 As described in Downtown Strategy 2040 FEIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO2e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.
Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from workplaces. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental EIR to the General Plan FEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, would ultimately be required to meet the mid-term 2030 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

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

**Policy MS-2.11:** Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

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

**Policy CD-3.2:** Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

**Policy CD-5.1:** Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

**Policy LU-5.4:** Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe,
accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

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 toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.8.1.2 Existing Conditions

The project site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure. For the purposes of this analysis, it is assumed that the project site does not currently generate energy use. Therefore, the following calculations were conservatively estimated.

4.8.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would not result in a significant GHG emissions impacts.

Thresholds of Significance

BAAQMD also developed a quantitative threshold for project- and plan-level analyses based on estimated GHG emissions, as well as per service population metrics. These thresholds are the basis for which post-2020 GHG thresholds have been developed at the project level (2024) and plan level (2040).

The BAAQMD GHG recommendations include a specific plan-and project-level GHG emission efficiency metric of 1,000 MT or 4.6 MT of CO₂e per service population (future residences and full-time workers) per year as the average efficiency to achieve the 2020 AB 32 statewide targets. Given the project would not be constructed and operational prior to December 31st, 2020, the City has developed updated GHG efficiency targets reflecting statewide goals beyond 2020. GHG emissions resulting from operation of the project at maximum build out have been compared to an efficiency metric threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, this
assessment uses a “Substantial Progress” efficiency metric of 2.6 MT CO$_2$e/year/service population based on the GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.\(^{42}\)

<table>
<thead>
<tr>
<th>Impact GHG-1:</th>
<th>The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. [Same Impact as Approved Project (Less Than Significant Impact)]</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Impact GHG-2:</th>
<th>The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. [Less Than Approved Project (Significant Unavoidable Impact)]</th>
</tr>
</thead>
</table>

**Construction Emissions**

The proposed development would result in a temporary increase in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers’ personal vehicles traveling to and from the project site. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends disclosing that GHG emissions would occur during construction. Construction related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Because construction would be temporary (approximately 35 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of SB 32 in 2030. [Same Impact as Approved Project (Less Than Significant Impact)]

**Consistency with the City’s Greenhouse Gas Reduction Strategy**

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified Greenhouse Gas Reduction Strategy that is consistent with AB 32 goals. If a project is consistent with an adopted Qualified Greenhouse Gas Reduction Strategy, it can be presumed that the project would not have significant GHG emissions under CEQA.\(^{43}\)

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the City’s GHG Reduction Strategy.

The proposed project’s consistency with these measures is detailed below.


Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)

2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
   - Solar Site Orientation
   - Site Design
   - Architectural Design
   - Construction Techniques
   - Consistency with City Green Building Ordinances and Policies
   - Consistency with GHGRS Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures
   - Consistency with Zoning Ordinance

4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;

5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;

6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and

7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and CBC requirements. In addition, the project would be designed to achieve LEED Gold certification consistent with City Policy 6-32. The project proposes 180 bicycle parking spaces which exceeds the City of San José’s bicycle parking requirement of 179 spaces. Because the project is consistent with planned growth in the downtown area and would comply with Policy 6-32 and CBC requirements, the project would be consistent with Mandatory Criteria 1, 2, and 3. The proposed project would be constructed consistent with the City’s required green building measures. Therefore, the project would be consistent with Criteria 2. Criteria 4, 5, and 7 are not applicable to the proposed project because the project does not include a data center or other energy-intensive use, or drive-through or vehicle serving uses. In addition, the project site does not contain historic structures. The project proposes a 1,055,000 square foot building with 840,000 square feet of leasable office space and would be a large employer.\(^{44}\) Therefore, Criteria 6 is applicable to the project. As part of the project’s TDM, the project proposes the following TCMs\(^{45}\):

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\(^{44}\) A large employer is defined as an employer with a minimum of 50 full-time employees or an equivalent number of part-time employees.

- **Transit Measures**
  - Design and locate buildings to facilitate transit access

- **Bicycle Measures**
  - Provide secure, weather-protected bicycle parking for employees
  - Provide safe, direct access for bicyclists to adjacent bicycle routes
  - Provide showers and lockers for bicycling or walking to work

The proposed project is consistent with the mandatory GHG Reduction Strategy goals and policies intended to reduce GHG emissions. **[(Same Impact as Approved Project (Less Than Significant Impact)]**

### Operation

Construction of the proposed project would begin in 2019 for 35 months. The CalEEMod model, along with the project’s vehicle trip generation rates, was used to estimate daily emissions associated with operation of the proposed project. Annual emissions resulting from project operations are shown in Table 4.8-1 based on a service population of 2,856 employees.

<table>
<thead>
<tr>
<th>Source Category</th>
<th>Project in 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td>0.04</td>
</tr>
<tr>
<td>Energy Consumption</td>
<td>2,959</td>
</tr>
<tr>
<td>Mobile</td>
<td>1,747</td>
</tr>
<tr>
<td>Solid Waste Generation</td>
<td>393</td>
</tr>
<tr>
<td>Water Usage</td>
<td>353</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5,451</strong></td>
</tr>
<tr>
<td><strong>Project MT of CO(_2)e/year/service population</strong></td>
<td><strong>1.9</strong></td>
</tr>
<tr>
<td>Significance Threshold</td>
<td>2.6 in 2030</td>
</tr>
</tbody>
</table>

As shown in the table above, the proposed project would not exceed the 2.6 MT CO\(_2\)e/year/service population threshold in 2030. Therefore, implementation of the proposed project would not result in a GHG emissions impact. **[Less Than Approved Project (Significant Unavoidable Impact)]**

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46 Please note the service population is based on the square footage of occupiable space. 840,000 square feet of occupiable office and amenity space x 3.4 employees / 1,000 square feet = 2,856 employees.
4.9  HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment from Cornerstone Earth Group in March 2018. A copy of this report is included in Appendix D of this document.

4.9.1  Environmental Setting

4.9.1.1  Regulatory Framework

Federal and State

Hazardous Materials Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies including the City of Santa Clara Fire Department have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Cortese List (Government Code Section 65962.5)

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by the state, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and CalRecycle. The project site is not on the Cortese List.47

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if

accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials and Lead-Based Paint

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles and vinyl floor tiles. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

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

Federal Aviation Administration Regulations

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

Local

Envision San José 2040 General Plan

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

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.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation.

Policy TR-14.3: For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports.

Policy TR-14.4: Require avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.2 Existing Conditions

The site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure. Groundwater on-site is estimated at a depth of approximately 15 to 25 feet bgs. Fluctuations in the
groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns. Groundwater in the project area flows in a northeasterly direction.

### 4.9.2.1 Historic Uses of the Project Site and Surrounding Land Uses

A land use history of the site was compiled based on aerial photographs, Sanborn Fire Insurance Maps, historical topographic maps, City directories, regulatory agency records, and previous environmental investigations.

The vicinity of the project site was developed with dwellings by 1884. The project site was occupied by several dwellings and outbuildings in 1891. By 1950, an apartment building was developed on the northern portion of the site. By 1966, the residences on-site were removed. From 1968 and 1974, the project site was undeveloped. The former Sanwa building (located at 200 Park Avenue) and Hyatt Place Hotel parking structure were constructed between 1974 and 1982. Commercial development in the area increased during the 1990s and 2000s. The Sanwa Bank Building occupied the site from 1985 until 2000 and was demolished in 2019.

### 4.9.2.2 On-Site Sources of Contamination

The parking structure on-site is listed in the regulatory agency database with permits for storage of hazardous materials, in conjunction with the Hyatt Place Hotel that shares an address with the parking structure. The Phase I Environmental Site Assessment (ESA) noted that these listings are not indicative of spills incidents and are unlikely related to the on-site parking structure.

**Asbestos Containing Materials and Lead-Based Paint**

The existing parking structure on-site was constructed in 1974. Given the age of the garage, ACMs and lead-based paint are likely present on-site.

### 4.9.2.3 Off-Site Sources of Contamination

The Phase I ESA identified 149 off-site sources of hazardous materials locations on various databases within one mile of the project site. All off-site sources of contamination were determined to not represent a significant environmental concern for the project site because 1) no release has occurred, 2) the distance of the facility from the project site and/or the location of the release relative to groundwater flow, or 3) the site is located at too great of a distance to be of significant environmental concern to the project site.

Based on a previous Phase I ESA prepared in April 2017, the Hyatt Place Hotel (immediately south of the project site) was previously occupied by a gasoline station, an auto repair building, and a potential dry cleaner. Prior to the development of the hotel, the site was excavated to a depth of approximately 10 to 15 feet bgs. According to the Phase I ESA, any buried storage tanks and/or contaminated soils would have been encountered and removed during the excavation and construction phase of the hotel.
### Other Hazards

#### Airports

Norman Y. Mineta San José International Airport is located approximately 2.5 miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is located within the Airport Influence Area (AIA). The proposed project is not located within a CLUP-defined safety zone. In addition, the project is not located in the vicinity of a private airstrip. For the project site, FAR Part 77 would require any proposed structure higher than approximately 70 feet above ground to be submitted to the FAA for airspace safety review. As the project proposes a maximum building height of 270 feet, review by the FAA is required.

#### Wildfire Hazards

The proposed project is located in a highly urbanized area that is not subject to wildland fires.

### 4.9.3 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as Approved Project</th>
<th>Less Impact than Approved Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>2) 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?</td>
<td>☐</td>
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</tr>
<tr>
<td>3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>☐</td>
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<tr>
<td>4) 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, will it create a significant hazard to the public or the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
Would the project:

5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area? ☐ ☐ ☐ ☒ ☐

6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan? ☐ ☐ ☐ ☒ ☐

7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? ☐ ☐ ☐ ☒ ☐

The proposed project would not expose construction workers, the public, or environment to significant hazards related to soil or groundwater contamination, the handling of hazardous materials, or wildland fires consistent with the findings of the Downtown Strategy 2040 FEIR.

**Impact HAZ-1:** The project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. [Same Impact as Approved Project (Less than Significant Impact)]

**Impact HAZ-2:** The project would not 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 With Mitigation Incorporated)]

As mentioned previously, the project site has no documented history of any spills or leaks. Based on a Phase I ESA prepared in April 2017, however, the Hyatt Place Hotel was previously occupied by a gasoline station, an auto repair building, and a potential dry cleaner. Although a portion of the site has been previously excavated and no contaminated soils were encountered, the Phase I ESA still recommends that soil, soil vapor, and groundwater sampling be analyzed to see if the project site has been impacted by releases of VOCs and/or petroleum hydrocarbons from the hotel site. Site excavation and grading could result in impacts to construction workers from exposure to contaminated soils and groundwater during construction activities. No other off-site sources of contamination were identified. Consistent with the standard measures in the Downtown Strategy 2040 FEIR, the following mitigation measures have been developed by the project to avoid soil and groundwater contamination impacts.
Mitigation and Avoidance Measures:

MM HAZ-2.1: Prior to issuance of grading permits, the project proponent shall retain a qualified hazardous materials contractor to perform a soil and groundwater investigation (i.e., Phase II Environmental Site Assessment) to determine the levels of contamination from potential volatile organic compounds (VOCs) and petroleum hydrocarbons in the project area. If the residual contaminants are not detected and/or are found to be below the environmental screening levels for public health and the environment in accordance with Santa Clara County Department of Environmental Health (SCCDEH), Regional Water Quality Control Board (RWQCB) or the California Department of Toxic Substances Control (DTSC) requirements, no further mitigation is required.

MM HAZ-2.2: If residual contaminants are found and are above regulatory environmental screening levels for public health and the environment, the project proponent shall implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP), Removal Action Workplan (RAP), or equivalent document under regulatory oversight from the SCCDEH or DTSC. Copies of all environmental investigations shall be submitted to the Director of Planning, Building and Code Enforcement or Director’s designee and the Supervising Environmental Compliance Officer in the City of San Jose’s Environmental Services Department.

The SMP shall be prepared by a qualified hazardous materials consultant and include the following:

- Management practices for handling contaminated soil or other materials if encountered during construction or cleanup activities and measures to minimize dust generation, stormwater runoff, and tracking of soil off-site.
- Preliminary Remediation Goals (PRGs) for environmental contaminants of concern to evaluate the site conditions following SMP implementation.
- A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.

The SMP shall be prepared and submitted to SCCDEH or DTSC for review and approval prior to issuance of grading permits and commencement of cleanup activities. The approved SMP shall detail procedures and protocols for management of soil containing environmental contaminants during site development activities.

The approved SMP or No Further Action letter (or equivalent assurance) from SCCDEH or DTSC documenting completion of cleanup activities shall be
provided to the Director of Planning, Building and Code Enforcement or Director’s designee prior to issuance of a grading permit.

A groundwater management and dewatering plan shall be developed to protect construction workers if groundwater is encountered, and to meet the permit requirements if groundwater is determined to require treatment prior to discharge to the sewer system. The RWQCB shall be informed of any groundwater contaminants and oversee the groundwater management plan.

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

The proposed project would likely include the on-site use and storage of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. [Same Impact as Approved Project (Less Than Significant Impact)]

**Asbestos-Containing Materials and Lead-Based Paint Impacts**

As mentioned previously, the parking structure on-site most likely had building materials that contain ACMs and lead-based paint. If the building is demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos. If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. If the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. It will be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately. The project proposes to excavate to a depth of approximately 46 feet for below-grade parking. Disturbance of these materials during demolition and construction of the proposed project could expose construction workers to harmful levels of lead. Demolition of the existing structures on the project site could expose construction workers or occupants of adjacent buildings to harmful levels of ACMs or lead.

The project is required to implement the following Standard Permit Conditions measures to reduce impacts due to the presence of ACMs and/or lead-based paint:

**Standard Permit Conditions:**

- In accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, an asbestos survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of BAAQMD. Demolition and disposal of ACM will be completed in accordance with the procedures specified by BAAQMD’s Regulation 11, Rule 2.

- A lead-based paint survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If lead-based paint is
identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified at the building, it shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Requirements set forth in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.

The Downtown Strategy 2040 FEIR concluded that conformance with regulatory requirements would result in a less than significant impact from ACMs and lead. [Same Impact as Approved Project (Less Than Significant Impact)]

**Dewatering During Construction**

As mentioned in *Section 4.7 Geology and Soils*, excavation activities on-site would encounter groundwater. Water discharge produced from construction dewatering to the sanitary sewer is 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. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB and the City’s Environmental Services Division. Dewatering during construction would not create a significant health and safety impact to construction workers or persons on adjacent sites. [Same Impact as Approved Project (Less Than Significant Impact)]

| Impact HAZ-3: | The project would not 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 project site is not located within one-quarter mile of any proposed or existing school. The nearest school is San José State University, located approximately 0.45 mile east of the project site. Therefore, implementation of the proposed project would not use or store hazardous materials in sufficient quantities to pose a health risk to any nearby school. [Same Impact as Approved Project (Less Than Significant Impact)]

| Impact HAZ-4: | The project would not 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, create a significant hazard to the public or the environment. [Same Impact as Approved Project (Less than Significant Impact)] |

As mentioned in *Section 4.9.1.1*, the project site is not on the Cortese List. As a result, the project would not create a significant hazard to the public or the environment. [Same Impact as Approved Project (Less than Significant Impact)]
Impact HAZ-5: The project would not be 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. The project would not 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)]

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

At a proposed maximum height of 300 feet above ground, the project is required to be reviewed by the FAA for FAR Part 77 conformance. General Plan Policy TR-14.4 require FAA issuance of a No Hazard determination prior to development approval, with any conditions set forth in an FAA No Hazard determination also incorporated in the City’s project approval. General Plan Policy TR-14.4 ensures that the project would not be a hazard to aircraft operations. The project would be subject to the appropriate FAA clearance prior to obtaining a building permit for vertical construction.

While the project site is not located within a CLUP-defined safety zone, the project is, however, located within the Norman Y. Mineta San José International AIA which is a composite of the areas surrounding the airport that are affected by noise, height, and safety considerations.48 The project would be required to follow all applicable General Plan policies (including General Plan Policies TR-14.2 and TR-14.3), regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport. Additionally, the project would be subject to the following Standard Permit Conditions.

**Standard Permit Conditions:**

- Comply with safety and noise policies identified in the CLUP for the Norman Y. Mineta San José International Airport (GP Policy TR-14.3).
- Design all new exterior lighting within the AIA in a manner that avoids interference with aircraft operations. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots (CLUP Policy G-7).

The project would not, however, result in a substantial safety hazard for people residing or working at the project site. [Same Impact as Approved Project (Less Than Significant Impact)]

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Impact HAZ-6:  The project would not 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)]

The project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. The proposed project would not impair or interfere with the implementation of the City’s Emergency Operations Plan or any statewide emergency response or evacuation plans. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact HAZ-7:  The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. [Same Impact as Approved Project (Less than Significant Impact)]

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. [Same Impact as Approved Project (Less Than Significant Impact)]

4.9.4  Non-CEQA Effects

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

General Plan Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users and provide as part of the environmental review process.

As mentioned previously, groundwater on-site may contain low concentrations of VOCs which may have originated from the facility at 333 San Carlos Street. Based on the Phase I ESA, it is recommended that soil, soil vapor, and groundwater sampling be analyzed to see if the site has been impacted by releases of VOCs and/or petroleum hydrocarbons from nearby properties.

In addition, the project site would be excavated to a depth of approximately 46 feet bgs which would encounter groundwater. The proposed project would be built and maintained in accordance with a site-specific geotechnical report which will be prepared and submitted to the City of San José Public Works Department for review and approval prior to the issuance of any grading or building permits. As a result, the proposed project would not result in human health and environmental hazards to future site users consistent with Policy EC-7.2.
4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 Regulatory Framework

Water Quality Overview

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

Federal and State

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan or “Basin Plan”. The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City’s stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.
Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008)(MRP) to regulate stormwater discharges from municipalities and local agencies (co-permitees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site’s natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030. Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

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

Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.\textsuperscript{50} Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and state level.

As part of its comprehensive dam safety program, the SCVWD routinely monitors and studies the condition of each of its 10 dams. The SCVWD also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes.

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

The City of San José’s Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and TCMs. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area.

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

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

Envision San José 2040 General Plan

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

\textit{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.

\textit{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 ER-10.5: Protect groundwater recharge areas, particularly creeks and riparian corridors.

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

Policy EC-5.7: Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

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.

Policy IN-3.1: Achieve minimum level of services:

- For sanitary sewers, achieve a minimum level of service “D” or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.
- For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.

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-3.9: Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
4.10.2 **Existing Conditions**

**Storm Drainage and Water Quality**

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

Stormwater from the project site drains into the Guadalupe River. Based on data from the EPA\(^1\), the Guadalupe River is currently listed on the California 303(d)\(^2\) list for Mercury and trash.

**Flooding**

Based on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone X.\(^3\) Zone X is designated as areas of 0.2 percent annual chance flood, areas of one percent annual chance flood with average depths of less than one foot or with drainage areas of less than one square mile, and areas protected by levees from one percent annual chance floods. There are no City floodplain requirements for Flood Zone X.

**Dam Failure**

Based on the SCVWD dam failure inundation hazard maps, the project site is located within the Lexington Dam and Anderson Dam failure inundation hazard zone.\(^4,5\)

**Seiches, Tsunamis, and Mudflows**

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

**Groundwater**

Groundwater beneath the site has been found at a depth of 15 to 25 feet. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

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2. The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.
### Hydromodification

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.\(^5\)

#### 4.10.3 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>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:</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>- result in substantial erosion or siltation on- or off-site;</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>- impede or redirect flood flows?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
<tr>
<td>d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
<td>□</td>
</tr>
</tbody>
</table>

---

Would the project:

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

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

Impact HYD-1: The project would not 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)]

Construction Impacts

The proposed project is 1.72-acre in size and would disturb more than one acre of soil; therefore, the project would be required to obtain an NPDES General Construction Permit. All development projects in the City are required to comply with the City of San José’s Grading Ordinance57 whether or not the project is required to obtain an NPDES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

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

Standard Permit Conditions:

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

57 The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.
• All trucks hauling soil, sand, and other loose materials would be covered and/or all trucks would be required to maintain at least two feet of freeboard.
• All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
• Vegetation in disturbed areas would be replanted as quickly as possible.
• All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The proposed project would include four levels of below-grade parking to a depth of approximately 46 feet. Groundwater is estimated to be approximately 15 to 25 feet bgs. It is anticipated that dewatering would be required during project construction. Dewatering would be temporary and would not have a long-term effect on groundwater supply (refer to Section 4.7 Geology and Soils and Section 4.9 Hazards and Hazardous Materials). Since excavation activities on-site would encounter groundwater, the project would be required to implement the following Standard Permit Conditions.

**Standard Permit Conditions:**

**Construction Period**

• As the project is regulated by the Statewide Construction General Permit, it shall be subject to the requirements of that permit related to construction-period pumped groundwater discharges.

**Post-Construction**

• The project shall be designed so that the below-grade parking structure would be able to withstand hydrostatic groundwater pressure and would not need to pump groundwater on a post-construction basis. If these measures are infeasible then the project can implement groundwater pumping in conformance with applicable permits.
• Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or bioretention unit that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer. Discharge to the sanitary sewer would require review by the City’s Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City’s Stormwater Permit - Provision C.15.b.(i)(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San José.
• Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San José with the Building Permit application submittal.
In addition, the project will be required to implement the following measures, consistent with the Downtown Strategy 2040 FEIR.

**Required Downtown Strategy 2040 FEIR Measures:**

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

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

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

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

Under existing conditions, approximately 83 percent (62,247 square feet) of the project site is comprised of impervious surfaces. Under project conditions, the site would be covered with approximately 95 percent (71,070 square feet) of impervious surfaces, a net increase of approximately 12 percent (8,823 square feet).

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

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

| Impact HYD-2: | The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. [Same Impact as Approved Project (Less than Significant Impact)] |

As mentioned previously, the proposed project would include four levels of below-grade parking to a depth of approximately 46 feet. Groundwater is estimated to be approximately 15 to 25 feet bgs. Based on this data, the proposed development could interfere with the shallow groundwater aquifer but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers. It is anticipated that dewatering would be required during project construction. The project site is not located within a designated recharge area nor does it contribute to the recharging of any groundwater aquifers. This condition would not change once the project is constructed and operational. Therefore, the proposed project would not interfere with groundwater flow or impact the groundwater aquifer. [Same Impact as Approved Project (Less Than Significant Impact)]
**Impact HYD-3:** The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. [Same Impact as Approved Project (Less than Significant Impact)]

The Guadalupe River Trail is located approximately 800 feet west of the site. Under project conditions, the impervious surfaces on-site would increase by approximately 8,823 square feet (12 percent). The project would comply with the NPDES General Construction Permit to reduce the rate of stormwater runoff while removing pollutants. While the proposed project would result in an increase in stormwater runoff, the proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. [Same Impact as Approved Project (Less Than Significant Impact)]

**Storm Drainage Impacts**

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

<table>
<thead>
<tr>
<th>Site Surface</th>
<th>Existing/Pre-Construction (sq ft)</th>
<th>%</th>
<th>Project/Post-Construction (sq ft)</th>
<th>%</th>
<th>Difference (sq ft)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Impervious Surfaces</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roof Area</td>
<td>35,970</td>
<td>48</td>
<td>57,311</td>
<td>76</td>
<td>+21,341</td>
<td>+28</td>
</tr>
<tr>
<td>Parking</td>
<td>12,609</td>
<td>17</td>
<td>0</td>
<td>0</td>
<td>-12,609</td>
<td>-17</td>
</tr>
<tr>
<td>Sidewalks, Patios, Driveways, etc.</td>
<td>8,759</td>
<td>11</td>
<td>13,759</td>
<td>19</td>
<td>+5,000</td>
<td>+8</td>
</tr>
<tr>
<td>Streets</td>
<td>4,909</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>-4,909</td>
<td>-7</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>62,247</td>
<td>83</td>
<td>71,070</td>
<td>95</td>
<td>+8,823</td>
<td>+12</td>
</tr>
<tr>
<td><strong>Pervious Surfaces</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pavement and Landscaping</td>
<td>12,903</td>
<td>17</td>
<td>4,080</td>
<td>5</td>
<td>-8,823</td>
<td>-12</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>75,150</td>
<td>100</td>
<td>75,150</td>
<td>100</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note:* The Sanwa building is no longer extant. This table assumes that the building foundation is still present.

Currently, approximately 83 percent (62,247 square feet) of the project site is comprised of impervious surfaces and have sufficient capacity to serve the site. The proposed project would increase impervious surfaces on-site by approximately 12 percent (8,823 square feet) which would result in a net increase in stormwater runoff.

The Downtown Strategy 2040 FEIR concluded that compliance with the MRP and associated City policies would reduce the overall rate and volume of runoff entering the storm drain system. As a
result, implementation of the proposed project would have a less than significant impact on the storm drainage system under project conditions. [Same Impact as Approved Project (Less Than Significant Impact)]

**Impact HYD-4:** The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. [Same Impact as Approved Project (Less than Significant Impact)]

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. A tsunami or tidal wave is a series of water waves caused by displacing a large volume of body of water, such as an ocean or a large lake. Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. Consistent with the NPDES General Construction Permit, a SWPPP would be prepared by a qualified professional prior to commencement of construction. The SWPPP would also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction to minimize pollutant discharge.

The project site is located within the Lexington Dam and Anderson Dam failure inundation hazard zone. The SCVWD routinely monitors and studies the condition of each of its 10 dams, including the Lexington Dam and Anderson Dam. As a result, the project would not release pollutants due to dam inundation. [Same Impact as Approved Project (Less Than Significant Impact)]

**4.10.4 Non-CEQA Effects**

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

General Plan Policy EC-5.1 requires evaluation of flood hazards prior to approval of development within a FEMA designated floodplain. New development shall be reviewed to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence or the 100-year flood. Based on the FEMA flood insurance rate maps, the project site is located in Flood Zone X, outside the 100-year floodplain. Implementation of the project would not redirect flows or expose people or structures to significant flood hazards. Therefore, implementation of the proposed project would not expose people or structures to flood hazards, consistent with General Plan Policy EC-5.1.

The project site is within the Lexington Dam and Anderson Dam failure inundation hazard zones. The California Division of Dams (DSOD) is responsible for inspecting dams on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. As part of its comprehensive dam safety program, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Anderson and Lexington. The Downtown Strategy 2040 FEIR concluded that with regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death. As a result, future employees of the site would not be exposed to flooding hazards.
Envision San José 2040 General Plan

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

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

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

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

Policy CD-2.11: Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

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

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

Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.

Policy LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrian, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

Policy TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Policy TR-14.4: Require avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
4.11.1.2 Existing Conditions

Existing Land Uses

The approximately 1.72-acre project site is comprised of two parcels (APNs 259-43-076 and -077) located at the southeast corner of the Park Avenue and South Almaden Boulevard intersection in downtown San José. The site has two street frontages, Park Avenue to the north and Almaden Boulevard to the west. The site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure. There are three driveways on South Almaden Boulevard and two driveways on Park Avenue that provide access to the site.

The project site is designated Downtown under the adopted General Plan and is zoned DC – Downtown Commercial. The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, an FAR of up to 15.0, and residential densities up to 350 dwelling units per acre.

Permitted land uses under the DC – Downtown Commercial zoning are consistent with the Downtown General Plan land use designation. Based on the Downtown Commercial zoning, development shall only be subject to height limitations necessary for the safe operation of Mineta San José International Airport. There are no minimum setbacks requirements.

Zoning Code Section 20.70.110 states that new structures exceeding 150 feet and an FAR of 6:1 which are constructed within 100 feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmark commission prior to consideration of approval of a development permit for new construction. The project site is located approximately 240 feet east of the San José Center for Performing Arts and approximately 160 feet south of the former Santa Clara County Superior Family Court building. The City National Civic and McCabe Hall are located approximately 300 and 150 feet southeast of the project site, respectively.

Figure 2.4-3 shows an aerial of the project site and surrounding land uses.

Surrounding Land Uses

Development in the project area is primarily a mix of commercial, entertainment venues, hotel, and office land uses, as well as a large park. Building heights vary by land use from one- to 16-stories.

Located north of the project site is Park Avenue, a four-lane multi-directional roadway with a raised center median and a designated mid-block pedestrian crossing. At the northwest corner of Park Avenue is a two-story building (former Santa Clara County Superior Family Court building) that is currently listed in the City’s Historic Resources Inventory as a Candidate City Landmark and is eligible as a historic resource. To the east of the former Santa Clara County Superior Family Court building are office buildings, restaurants, and an entrance to the CityView Plaza parking structure.

Immediately east of the project site is a pedestrian corridor. The parcel located east of the pedestrian corridor is currently occupied with a one-story public exhibit building (Parkside Hall) which has been approved for a 24-story, mixed-use development (File Nos. SP17-031 and T16-024). The Tech Museum is located east of the public exhibit building. Cesar Chavez Park is located east of the Tech Museum. Located south of the project site is the Hyatt Hotel, a nine-story glass and stucco building.
The City National Civic, a two-story building, and McCabe Hall are both located southeast of the project site. Located west of the site is South Almaden Boulevard, a four-lane divided arterial. West of South Almaden Boulevard is the San José Center for Performing Arts (a Candidate City Landmark).

4.11.2 Impact Discussion

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Would the project:</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>1) Physically divide an established community?</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) 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?</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>3) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?</td>
<td></td>
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</tbody>
</table>

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

**Impact LU-1:** The project would not physically divide an established community. [Same Impact as Approved Project (Less than Significant Impact)]

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. The project proposes to redevelop an underutilized site with a 20-story, office development that would place jobs within close proximity to housing, transit, and other services within the downtown core. Based on the Downtown Strategy 2040 FEIR, future development under the Downtown Strategy 2040 would not substantially change allowed land uses in the Downtown and would generally continue and reinforce the patterns of land use currently in place. In addition, the Downtown Strategy 2040 states that no new land uses are proposed for the greater downtown area that would conflict with established or proposed uses. The new development would complement the existing uses in the project area and, as a result, the project would not physically divide an established community. [Same Impact as Approved Project (Less Than Significant Impact)]
**Impact LU-2:** The project would not 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. [Same Impact as Approved Project (Less than Significant Impact)]

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**General Plan Land Use Designation and Zoning**

The project site is designated *Downtown* under the City’s General Plan and has a zoning designation of *DC*. As proposed, the project would construct a 20-story, 1,055,000 square foot office building. The proposed project would have an FAR of 14.0, consistent with the *Downtown* General Plan designation.

Under the *DC – Downtown Commercial* zoning designation, development shall only be subject to the height limitations necessary for the safe operation of the Norman Y. Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements. The proposed project would have a maximum height of 300 feet, and would be required to comply with applicable FAA regulations, consistent with General Plan Policy CD-5.8, to ensure the proposed height does not interfere with aircraft operations. As a result, the project would be consistent with the General Plan and zoning designations. Implementation of the project would not conflict with any applicable land use plan. [Same Impact as Approved Project (Less Than Significant Impact)]

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**Major Strategy #4**

The City’s General Plan has established a jobs/housing balance ratio goal of 1.1 to 1 by the year 2040. In the near term, the City’s General Plan strives to achieve a jobs/housing balance ratio of 1.0 by the year 2025. The Land Use/Transportation Diagram and General Plan policies support the development of up to 382,000 new jobs within San José and a jobs to employed residents ratio of 1.1 jobs/employed resident. The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The proposed project would add jobs (up to 2,856 employees) and create a more balanced jobs to housing ratio. The proposed project would not cause a significant environmental impact due to a conflict. [Same Impact as Approved Project (Less Than Significant Impact)]

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**Compatibility with Airport Operations**

The project site is located approximately 2.5 miles southeast of the Norman Y. Mineta San José International Airport. The project site is located within the AIA established by the Santa Clara County Airport Land Use Commission (ALUC) in its CLUP for the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations, and the CLUP sets forth standards and policies for land use compatibility with these airport considerations.

As stated in *Section 4.9 Hazards and Hazardous Materials*, the project must obtain an FAA “determination of no hazard” prior to City approval and comply with any conditions set forth in the FAA determinations. Pursuant to City and ALUC policy, commercial land uses are considered

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58 Proposed Building Square Footage 1,055,000 / Site Area Square Footage 75,150 = 14.0 FAR
compatible (subject to standard mitigation) within the project’s 65 to 70 DBA CNEL aircraft noise environment. The project would be required to grant an Avigation Easement to the City to provide for property owner acceptance of aircraft noise and building elevation limits. The proposed project would not conflict with the FAA, ALUC, and City regulations/policies. **[Same Impact as Approved Project (Less Than Significant Impact)]**

| Impact LU-3: | The project would not result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park). **[Same Impact as Approved Project (Less than Significant Impact)]** |

The project proposes to construct a 20-story office building with a maximum height of 300 feet. To determine the specific shading of the proposed development on the surrounding land uses, a shade and shadow analysis was completed by the project architect. Shade and shadow analyses are typically prepared for March 21, June 21, and December 21. This provides an analysis of each season as well as the longest and shortest days of the year, covering the full spectrum of possible shade and shadow issues. Consistent with standard practices, Figure 4.11-1 below provides data for 9:00 AM, noon, and 3:00 PM for March 21, June 21, and December 21.

As indicated in the Downtown Strategy 2040 FEIR, the City identifies significant shade and shadow impacts as occurring when a building or other structure located in the Downtown area substantially reduces natural sunlight on public open spaces, measured on winter solstice when the sun is lowest in the sky (December 21st); the spring equinox, when day and night are approximately equal in length (March 21st); and summer solstice when the sun is at its highest point in the sky (June 21st).

For purposes of the Downtown Strategy 2040 FEIR, implementation of the Downtown Strategy would result in a significant shade and shadow impact if 10 percent or greater shadow would be cast onto any of the six major open space areas in the Downtown San Jose area (St James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, McEnery Park).

As shown in Figure 4.11-2,\(^{60}\) the proposed project would cast shadows on Caesar Chavez Park for limited hours during winter months, consistent with previously approved projects in the area. Given the location of the project site relative to previously entitled and approved projects within the immediate area, the proposed project would not result in any new or more significant shade and shadow impacts on Caesar Chavez Park than what was analyzed in previous EIRs and addenda thereto. As a result, the proposed project would not have a significant shade and shadow impact.

\(^{60}\) The shade and shadow analysis shown on Figure 4.11-2 is conservative and does not take into account the approved entitlements and/or construction of nearby projects with the same shadow coverage impacts.
4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 Regulatory Framework

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 Existing Conditions

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

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.
4.12.2  **Impact Discussion**

<table>
<thead>
<tr>
<th>Impact MIN-1:</th>
<th>The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. [Same Impact as Approved Project (No Impact)]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact MIN-2:</td>
<td>The project would not result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. [Same Impact as Approved Project (No Impact)]</td>
</tr>
</tbody>
</table>

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

4.13.1 Environmental Setting

4.13.1.1 Background Information

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are almost always expressed using one of several noise averaging methods, such as L_{eq}, DNL, or CNEL.\textsuperscript{61} Using one of these descriptors is a way for a location’s overall noise exposure to be measured, given that there are specific moments when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

4.13.1.2 Vibration Overview

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

4.13.1.3 Regulatory Framework

State

California Building Standards Code

The State Building Code, Title 24, Part 2 of the California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 50 dBA L_{eq(1-hr)} or less during hours of operation at a proposed office building.

\textsuperscript{61} L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 p.m. and 7:00 a.m. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 p.m. and 10:00 p.m. As a general rule of thumb where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.  

200 Park Avenue Office Project City of San José

Initial Study/Addendum October 2019
Envision San José 2040 General Plan

The General Plan includes the following policies applicable to the proposed project. The City’s noise and land use compatibility guidelines are shown in Table 4.13-1, below.

<table>
<thead>
<tr>
<th>Land Use Category</th>
<th>Exterior DNL Value in Decibels</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>55</td>
</tr>
<tr>
<td>1. Residential, Hotels and Motels, Hospitals and Residential Care¹</td>
<td></td>
</tr>
<tr>
<td>2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds</td>
<td></td>
</tr>
<tr>
<td>3. Schools, Libraries, Museums, Meeting Halls, and Churches</td>
<td></td>
</tr>
<tr>
<td>4. Office Buildings, Business Commercial, and Professional Offices</td>
<td></td>
</tr>
<tr>
<td>5. Sports Arena, Outdoor Spectator Sports</td>
<td></td>
</tr>
<tr>
<td>6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

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

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 DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA 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 Environmental General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.
Exterior Noise Levels
For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

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

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

Policy EC-1.6: Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.
- For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be 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-2.1: Near light and heavy rail lines or other sources of groundborne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
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 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.

4.13.2 Background Information

Noise

Noise is typically defined as unwanted sound. Acceptable levels of noise vary from land use to land use. State and federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called $L_{eq}$. The most common averaging period is hourly, but $L_{eq}$ can describe any series of noise events of arbitrary duration. For single-event noise sources, an $L_{max}$ measurement is used which describes the maximum A-weighted noise level during the measurement period.

The scientific instrument used to measure noise is the sound level meter. Sound level meters can measure environmental noise levels within about plus or minus one dBA. Since the sensitivity to noise increases during the evening and at night, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Community Noise Equivalent Level (CNEL) is a measure of the cumulative noise exposure in a community, with a five dB penalty added to evening hours between 7:00 PM and 10:00 PM and a 10 dB addition to nighttime hours between 10:00 PM and 7:00 AM. The Day/Night Average Sound Level, DNL, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 4.13-2 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.
Table 4.13-2: Effects of Vibration

<table>
<thead>
<tr>
<th>PPV (in/sec)</th>
<th>Human Reaction</th>
<th>Effect on Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.01</td>
<td>Barely perceptible</td>
<td>No effect</td>
</tr>
<tr>
<td>0.04</td>
<td>Distinctly perceptible</td>
<td>Vibration unlikely to cause damage of any type to any structure</td>
</tr>
<tr>
<td>0.08</td>
<td>Distinctly perceptible to strongly perceptible</td>
<td>Recommended upper level of vibration to which ruins and ancient monuments should be subjected</td>
</tr>
<tr>
<td>0.1</td>
<td>Strongly perceptible</td>
<td>Virtually no risk of damage to normal buildings</td>
</tr>
<tr>
<td>0.3</td>
<td>Strongly perceptible to severe</td>
<td>Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.</td>
</tr>
<tr>
<td>0.5</td>
<td>Severe – vibration considered unpleasant</td>
<td>Threshold at which there is a risk of damage to newer residential structures.</td>
</tr>
</tbody>
</table>

Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, etc. The rattling sound can give rise to exaggerated vibration complaints, even though there is little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of the physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels such as people in an urban environment may tolerate higher vibration levels.

Structural damage can be classified as cosmetic, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structure damage to a building. Construction-induced vibration that can be detrimental to a building is very rare and has only been observed in instances where the structure in a high state of disrepair and the construction activities occur immediately adjacent to the structure.

4.13.2.1 Existing Conditions

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways and aircraft associated with the Norman Y. Mineta San José International Airport. Based on the General Plan’s Existing Citywide Traffic Noise Contours Map, the existing ambient noise
levels at the project site are 65 to 70 dBA DNL. The project site is located approximately 2.5 miles southeast of the Norman Y. Mineta San José International Airport. The project is within the airport’s area of influence noise contours (65 dBA CNEL).

Development in the project area is a mix of commercial, entertainment venues, hotel, and office land uses. There are no residential uses in close proximity to the site. While there are non-residential sensitive receptors in the project area, noise exposure would be minimal given the limited periods in which the receptors would occupy these land uses.

### 4.13.3 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project result in:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

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

The CEQA Guidelines state that a project would have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis; however, CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.
Impact NOI-1: The project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. [Less Impact than Approved Project/Less Than Significant Impact (Significant Unavoidable Impact)]

Operational Noise Impacts

Project Generated Traffic Noise Impacts

An increase of three dBA DNL is considered substantial in noise sensitive areas along roadways. The proposed project would have to double the existing traffic volumes in the area to substantially increase noise levels by three dBA or more. Implementation of the project would result in approximately 5,356 new daily trips. Although the increase in traffic would result in an overall noise increase in the project area, these volumes would not be sufficient to double the existing traffic volumes or substantially increase noise levels. Additionally, Table 3.12-6 of the Downtown Strategy summarizes all affected intersections located within the Downtown. Noise levels would increase substantially (e.g., three dBA DNL or more) along segments of Santa Clara Street, Autumn Street, San Carlos Street, Bird Avenue, Julian Street, Almaden Boulevard, Race Street, The Alameda, King Road, First Street, Fruittale Avenue, Alma Avenue, Naglee Avenue, and Keyes Street. The Park Avenue/South Almaden Boulevard intersection is not listed in the table. For this reason, the project would not generate a substantial permanent increase in ambient noise levels in excess of established thresholds. [Less Impact than Approved Project/Less Than Significant Impact (Significant Unavoidable Impact)]

Mechanical Equipment

The proposed project would include various mechanical equipment such as refrigeration systems, air condition systems, exhaust fans, and ventilation systems that could increase ambient noise levels in the immediate project vicinity. Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses. In accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required as a Condition of Project Approval to implement the following measure:

Condition of Project Approval:

- A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City’s 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits for vertical construction.
With implementation of the Condition of Project Approval, the project would have a less than significant operational noise impact. [Same Impact as Approved Project (Less Than Significant Impact)]

Construction Noise Impacts

Construction of the project is anticipated to occur over a period of 35 months (starting at the end of 2019). Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the proposed project would involve demolition of existing structure and pavement, site preparation, grading and excavation, trenching, and paving which would temporarily increase noise levels in the immediate vicinity of the site.

Consistent with the Downtown Strategy 2040, the Municipal Code, and in accordance with the Downtown Strategy 2040 FEIR, particularly Policy EC-1.7, the proposed project would be required to implement the following measures during all phases of construction on-site:

**Required Downtown Strategy 2040 FEIR Measures:**

- Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by five dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

With implementation of the identified measures, the project would have a less than significant impact from the temporary increase in ambient noise levels in the project area. [Same Impact as Approved Project (Less Than Significant Impact)]
Extended Construction Hours

The project proposes to extend the construction timeframe to six days a week (6:00 AM to midnight) for 35 months. In addition, the project includes up to eight, 24-hour concrete pours. Pursuant to Section 20.100.450 of the City’s Municipal Code, construction is allowed within 500 feet of residences outside the hours of 7:00 AM to 7:00 PM Monday through Friday if allowed by a Development Permit or other planning approval. There are no existing sensitive receptors within 500 feet of the project site. All nearby residences are more than 1,000 feet from the project site; therefore, no receptors would be exposed to an increase in ambient noise levels during the proposed extended construction hours. While the site is in proximity to a mix of commercial, entertainment venues, hotel, and office land uses, these are not considered noise sensitive land uses.

Additionally, up to eight 24-hour concrete pours would result in construction noise during noise sensitive nighttime hours. Noise exposure at these land uses would be minimal given the limited periods in which the hotel guests and patrons of the restaurants and entertainment venues would occupy these land uses. The number of proposed concrete pours would be no more than eight out of the entire 35-month construction schedule. With the limited number of days, the 24-hour concrete pours would not result in a significant noise impact.

The applicant would be required to implement the City’s required measures (listed above) during all phases of construction between the hours of 6:00 AM and midnight and during all hours of the concrete pours. [Same Impact as Approved Project (Less Than Significant Impact)]

<table>
<thead>
<tr>
<th>Impact NOI-2:</th>
<th>The project would not result in generation of, excessive groundborne vibration or groundborne noise levels. [Same Impact as Approved Project (Less Than Significant Impact)]</th>
</tr>
</thead>
</table>

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

General Plan Policy EC-2.3 requires new development to minimize vibration impacts to adjacent uses during demolition and construction. A vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures and a vibration limit of 0.2 in/sec PPV shall be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Construction equipment, such as clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, and jackhammers would not be anticipated to cause vibration levels in excess of the City’s vibration threshold for buildings of normal construction at distances exceeding 25 feet from construction.62 The City’s vibration threshold for sensitive

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historic structures would be exceeded within approximately 60 feet of construction equipment other than pile driving.\textsuperscript{63}

The project site is located near three structures listed in the City’s Historic Resources Inventory, the City National Civic, the San José Center for the Performing Arts, and the former Santa Clara County Superior Family Court. The San José Center for the Performing Arts is located approximately 240 feet west of the project site. The City National Civic is located approximately 300 feet southeast of the project site. The project site is located approximately 160 feet south of the Santa Clara County Superior Family Court building. The nearest building to the project site is the Hyatt Hotel, located approximately 30 feet south of the project site.

Due to the distance of the project site and surrounding buildings, it is reasonable to assume vibration levels due to demolition and construction activities would be below the 0.2 in/sec PPV threshold for historic buildings. Nevertheless, the project shall implement the following standard measures to reduce construction-related groundborne vibration impacts to a less than significant level.

**Required Downtown Strategy 2040 FEIR Measures:**

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g. tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- Notify neighbors within 500 feet of the construction site of the construction schedule.
- A construction vibration monitoring plan shall be implemented to document conditions at the historic properties within 60 feet of the site and conventional properties within 25 feet of the project site prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California (and a Historic Architect if the affected structures are historic resources) and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
  - Identification of sensitivity to ground-borne vibration of nearby structures. A vibration survey (generally described below) would need to be performed.

\textsuperscript{63} Ibid.
− Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures. Surveys shall be performed prior to the start of construction, in regular intervals during construction, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.

− Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the 2040 General Plan such as Policy EC-2.3.

− If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.

− Conduct post-construction 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 results of all vibration monitoring shall be summarized and submitted in a report to the City’s Supervising Environmental Planner assigned by the City to the project review, shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.

− Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With implementation of the identified mitigation measures, the project would have a less than significant construction vibration impact. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact NOI-3: The project would not be locate 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. The project would not expose people residing or working in the project area to excessive noise levels. [Same Impact as Approved Project (Less than Significant Impact)]

As mentioned previously, the project site is located approximately 2.5 miles southeast of the Norman Y. Mineta San José International Airport. The project site is within the Airport Influence Area and the 65 dBA CNEL aircraft noise impact area of the Norman Y. Mineta San José International Airport. The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and compliance with the local airport land use plans would reduce program-level aircraft noise impacts to a less than significant level. [Same Impact as Approved Project (Less Than Significant Impact)]
4.13.4 Non-CEQA Effects

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

City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review. As mentioned above, noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways and aircraft associated with the Norman Y. Mineta San José International Airport. Existing ambient noise levels at the project site range from 65 to 70 dBA DNL. Based on the General Plan noise and land use compatibility guidelines, commercial/office development is allowed in areas with ambient noise levels up to 70 dBA DNL and is conditionally allowed in areas with noise levels up to 80 dBA DNL.

Based on estimated future traffic volumes associated with planned growth, the Downtown Strategy 2040 FEIR concluded that ambient noise levels on the project site would be approximately 70 to 75 dBA DNL by 2040. Consistent with the Downtown Strategy 2040 FEIR and General Plan Policy EC-1.1, the proposed project would be required to implement the following Condition of Project Approval.

**Condition of Project Approval:**

- Shield common outdoor areas with buildings and parapet walls or other noise attenuation features/structures to comply with General Plan Policy EC-1.1.

In addition, the CBC requires that commercial buildings be constructed to provide an interior noise environment of 50 dBA in occupied areas during any hour of operation. A typical commercial building envelope provides at least a 30 dBA reduction in traffic noise. With exterior noise levels up to 75 dBA DNL, the interior noise levels would be 45 dBA with standard construction techniques. As a result, interior noise levels would comply with the most recent CBC requirements. Future interior and exterior noise levels would be consistent with General Plan Policy EC-1.1.
4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

The population of San José was estimated to be approximately 1,051,316 in January 2018 with an average of 3.20 persons per household.\(^6\) The City currently has approximately 335,164 housing units and, by 2040, the City’s population is projected to reach 1,445,000 with 472,000 households.\(^6\)

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

4.14.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) 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)?</td>
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<tr>
<td>2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?</td>
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Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant populating and housing impacts, as described below.

**Impact POP-1:** The project would not 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)]

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


The project would construct approximately 840,000 square feet of occupiable office space proposed within the building. The proposed project would result in an increase in jobs citywide of up to 2,856 employees. The increase in jobs would incrementally decrease the overall jobs/housing imbalance within the City but would not increase population growth beyond what is assumed in the General Plan. The project does not propose to extend roads or other infrastructure to previously undeveloped areas and would not remove obstacles to population growth. For these reasons, the project would not induce substantial population growth in the City. [Same Impact as Approved Project (Less Than Significant Impact)]

**Impact POP-2:** The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. [Same Impact as Approved Project (Less than Significant Impact)]

The project site is developed with a vacant lot and the Hyatt Hotel parking structure which is currently vacant. Construction of the project would not result in the displacement of people or existing housing, or necessitate the construction of housing elsewhere. [Same Impact as Approved Project (Less Than Significant Impact)]

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66 The number of full-time employees is based on an approximate 3.4 employees per 1,000 square feet of office space.
4.15  PUBLIC SERVICES

4.15.1  Environmental Setting

4.15.1.1  Regulatory Framework

Local

Envision San José 2040 General Plan

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

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.
3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies, and operating models.
4. Measure service delivery to identify the degree to which services are meeting the needs of San José’s community.
5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-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 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.

4.15.1.2  Existing Conditions

Fire Protection Services

Fire protection services for the project site is provided by the San José Fire Department (SJFD). Fire stations are located throughout the City to provide adequate response times to calls for service. The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. Emergency response is provided by 33 fire stations, 30 engine companies, nine truck companies, and three squad units.67 The nearest fire station to the site is Station No. 1, located at 225 North Market

Street, approximately 0.8 miles north of the project site. The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

Police Protection Services

Police protection services for the project site is provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street, approximately 1.8 miles north of the project site. The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes of less for 60 percent of all Priority 2 (nonemergency) calls.

Schools

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

Parks

The City’s Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains approximately 190 neighborhood-serving parks and nine regional parks.68

The nearest parks to the project site are Plaza de César Chávez Park, located at 194 South Market Street, and John P. McEnery Park, located at San Fernando Street and Almaden Boulevard. The physical distance between the project site and Plaza de César Chávez Park is approximately 0.2 miles east of the project site. The physical distance between the project site and John P. McEnery Park is approximately 0.2 miles northwest of the project site.

Libraries

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library system consists of one main library (Dr. Martin Luther King Jr. Library) and 22 branch libraries. The nearest library to the site is Dr. Martin Luther King Jr. Library, located approximately 0.6 miles east of the project site.

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4.15.2 Impact Discussion

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<tr>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
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</table>

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

1) Fire Protection?
2) Police Protection?
3) Schools?
4) Parks?
5) Other Public Facilities?

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

**Impact PS-1:** The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. **[Same Impact as Approved Project (Less than Significant Impact)]**

**Impact PS-2:** The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. **[Same Impact as Approved Project (Less than Significant Impact)]**

The existing building on-site is currently vacant, but the parking structure is in use by the Hyatt Hotel. The proposed office development would place more people on-site (up to 2,856 employees) during regular business hours compared to existing conditions which would increase demand for fire and police response and related emergency services. The Downtown Strategy 2040 FEIR concluded that, construction of new fire stations, other than those currently planned, would not be required to adequately serve the larger population. In regards to police protection services, build out of the
Downtown Strategy 2040 FEIR would result in the need for additional police services, build out of the General Plan would result in the need for additional police facilities, but is not anticipated to have significant, adverse environmental impacts. The project, by itself, would not require additional police services.

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

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**Impact PS-3:** The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. [Less Impact than Approved Project (No Impact)]

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The project proposes to construct an office building and would not include any residential development. No new students would be generated by implementation of the proposed project. Therefore, the proposed project would not result in an adverse physical impact to new or physically altered governmental facilities or result in the need for new or physically altered governmental facilities. [Less Impact than Approved Project (No Impact)]

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**Impact PS-4:** The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. [Same Impact as Approved Project (Less than Significant Impact)]

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As mentioned above, the proposed development would place more people on-site during regular business hours than exist currently. Although there would be an increase in the daily employee population in the City and future employees may use local parks or trails, weekday employees are unlikely to place a major physical burden on these facilities. Therefore, the proposed project would not result in substantial adverse physical impacts on park facilities in the City. [Same Impact as Approved Project (Less Than Significant Impact)]

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**Impact PS-5:** The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities. [Same Impact as Approved Project (Less than Significant Impact)]
The proposed project would construct a new office building and would not include any residential uses. Although future employees may use library facilities within the City, the employees are unlikely to place a major physical burden on these library facilities. Additionally, the Downtown Strategy 2040 FEIR concluded that development and redevelopment allowed under the Downtown Strategy 2040 would be adequately served by existing and planned library facilities. For these reasons, implementation of the proposed project would not result in substantial adverse physical impacts to San José library facilities. [Same Impact as Approved Project (Less Than Significant Impact)]
4.16 RECREATION

4.16.1 Environmental Setting

The City’s Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks. The City currently operates 195 neighborhood parks, 50 community centers, nine regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Plaza de César Chávez Park and John P. McEnery Park, located approximately 0.2 miles east and 0.2 miles northwest, respectively.

4.16.2 Impact Discussion

| Impact REC-1: | The project would not increase in 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)] |
| Impact REC-2: | The project would not 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 construction of approximately 840,000 square feet of office space would place approximately 2,856 employees on-site during normal business hours. Although the new employees on-site may use City parks, trails, or other recreational facilities, they would not place a major physical burden on

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70 The number of full-time employees is based on an approximate 3.4 employees per 1,000 square feet of office space.
existing recreational facilities that would result in substantial physical deterioration of these facilities. The proposed project would not increase the usage of existing parks and other recreational facilities such that construction of new facilities or expansion of existing recreational facilities would be required. [Same Impact as Approved Project (Less than Significant Impact)]
4.17 TRANSPORTATION/TRAFFIC

The following analysis is based on a Local Transportation Analysis completed by Hexagon Transportation Consultants, Inc. in September 2019. A copy of this report is included in Appendix E of this document.

4.17.1 Environmental Setting

4.17.1.1 Regulatory Framework

State

Regional Transportation Planning

The 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 Plan Bay Area 2040 in July 2017, which includes the region’s Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Senate Bill 743

Senate Bill 743 (SB 743), which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that “promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses.” Specifically, SB 743 directs the Governor’s Office of Planning and Research (OPR) to update the CEQA Guidelines to replace automobile delay—as described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with vehicle miles traveled (VMT) as the recommended metric for determining the significance of transportation impacts. OPR has approved the CEQA Guidelines implementing SB 743. Beginning on July 1, 2020, the provisions of SB 743 will apply statewide.

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

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), a program aimed at reducing regional traffic congestion. The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each

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71 Please note the Local Transportation Analysis is based on 840,000 square feet of leasable office space and ground floor amenity space.
The county’s share of the increased gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

**Local**

**Transportation Analysis Policy (City Council Policy 5-1)**

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

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

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

**Envision San José 2040 General Plan**

The 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-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-8.9: 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.

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.

   a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.

   b. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.

   c. Provide pedestrian connections as outlined in the Urban Community Design Connections Goal and Policies.

   d. Locate retail and other active uses at the street level.

   e. Create easily identifiable and accessible building entrances located on street frontages or paseos.

   f. Accommodate the physical needs of elderly populations and persons with disabilities.

   g. Integrate existing or proposed transit stops into project designs.

Policy CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.
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.

4.17.1.2 Existing Conditions

Roadway Network

Regional Access

Regional access to the site is provided via State Route (SR) 87 and Interstate 280 (I-280).

SR 87 is primarily a six-lane freeway (four mixed-flow lands and two high-occupancy vehicle [HOV] lanes) that is aligned in a north-south orientation. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with Highway 101 (U.S. 101). Access to and from the project site is provided via ramps at Woz Way/Auzerais Avenue, Park Avenue, and Santa Clara Street.

Interstate 280 is an eight-lane freeway that extends northwest to San Francisco and east to King Road. Access to and from the project site is provided via ramps at Almaden Boulevard, Vine Street, First Street, and Seventh Street.

Local Access

Local access to the project site is provided by Park Avenue, Almaden Boulevard, San Carlos Street, San Fernando Street, and Market Street.

Park Avenue is a two- to four-lane roadway that extends from Market Street westward to Meridian Avenue then northwest to The Alameda, where it terminates. Park Avenue runs along the project’s north frontage.

Almaden Boulevard is a north-south, four-lane divided arterial that runs along the project’s western frontage. It extends between St. John Street and Grant Street.

San Carlos Street is an east-west, four-lane street located south of the project site. It extends as West San Carlos Street westward to Bascom Avenue, where it transitions into Stevens Creek Boulevard.

San Fernando Street is an east-west, two-lane street that extends through the heart of downtown between Autumn Street to the west and North 17th Street to the east.

Market Street is a north-south, four-lane street located west of the project site. The northbound and southbound lanes of Market Street are divided by Plaza de Cesar Chavez.

Pedestrian Facilities

A complete network of sidewalks is present along all of the surrounding streets, including the project frontages on Park Avenue and Almaden Boulevard. Crosswalks and pedestrian signal heads are
located at all signalized intersections including Park Avenue/Almaden Boulevard, Park Avenue/Market Street, and Almaden Boulevard/San Carlos Street. The majority of crosswalks at signalized intersections in the vicinity of the site consist of high visibility crosswalks, enhancing pedestrian visibility and safety while crossing the intersections.

An approximately 50-foot wide pedestrian paseo is located east of the project site and provides a direct connection between San Carlos Street and Park Avenue. In addition, a crosswalk is located along Park Avenue which connects the pedestrian walkway to the north side of Park Avenue. The existing sidewalks and paseos provide adequate pedestrian connectivity and safe routes to surrounding land uses. Overall, the existing network has good connectivity and provides pedestrians with safe routes to transit and other services and points of interest in the downtown area.

Existing pedestrian facilities are shown on Figure 4.17-1.

**Bicycle Facilities**

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Class II bicycle facilities (striped bike lanes) are provided along Almaden Boulevard (along the western project frontage) and Park Avenue (along the northern project frontage).

Class II bicycle lanes are also provided along the following roadways within the project area:

- Almaden Boulevard, between Woz Way and Carlysle Street
- San Fernando Street, between Tenth Street and Cahill Street
- Woz Way, between San Carlos Street and Almaden Avenue
- Park Avenue, west of Market Street
- Santa Clara Street, west of Almaden Boulevard
- Second Street, between San Carlos Street and Keyes Street and between Julian Street and Taylor Street
- Third Street, between Jackson Street and Humboldt Street
- Fourth Street, between Jackson Street and Reed Street

Class III bicycle routes with shared-lane pavement markings are provided along the following roadways:

- San Fernando Street, east of Tenth Street
- San Carlos Street, between Woz Way and Fourth Street
- San Salvador Street, east of Market Street
- Second Street, between San Carlos Street and Julian Street
- First Street, between William Street and St. John Street

The Guadalupe River Trail, an 11-mile Class I bicycle path that extends from Curtner Avenue to Alviso, can be accessed east of the Woz Way/Park Avenue intersection, approximately 800 feet west of the site. Existing bicycle facilities are shown in Figure 4.17-2.
Transit Services

Train services in the project area is provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak. Existing transit facilities are shown in Figure 4.17-3.

Bus Service

The downtown area is served by many local bus lines. Existing bus lines near the project site are listed in Table 4.17-1 below. The nearest bus stops with local service are located on Almaden Boulevard and along San Carlos Street.

<table>
<thead>
<tr>
<th>Route</th>
<th>Route Description</th>
<th>Headway (min)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Route 22</td>
<td>Palo Alto Transit Center to Eastridge Center via El Camino Real</td>
<td>12-15</td>
</tr>
<tr>
<td>Local Route 23</td>
<td>DeAnza College to Alum Rock Transit Center via Stevens Creek</td>
<td>10-15</td>
</tr>
<tr>
<td>Local Route 63</td>
<td>Almaden Expressway and Camden to San José State University</td>
<td>30</td>
</tr>
<tr>
<td>Local Route 64</td>
<td>Almaden LRT Station to Mckee and White via Downtown San José</td>
<td>15-17</td>
</tr>
<tr>
<td>Community Route 65</td>
<td>Kooser and Blossom Hill to Thirteenth and Hedding</td>
<td>45-50</td>
</tr>
<tr>
<td>Local Route 66</td>
<td>Kaiser San José Medical Center to Dixon Landing Road</td>
<td>15</td>
</tr>
<tr>
<td>Local Route 68</td>
<td>Gilroy Transit Center to San José Diridon Station</td>
<td>15-20</td>
</tr>
<tr>
<td>Local Route 72</td>
<td>Senter and Monterey to Downtown San José</td>
<td>12-15</td>
</tr>
<tr>
<td>Local Route 73</td>
<td>Snell and Capital Expressway to Downtown San José</td>
<td>15</td>
</tr>
<tr>
<td>Local Route 81</td>
<td>San José State University-Moffett Field/Ames Center</td>
<td>25-30</td>
</tr>
<tr>
<td>Local Route 82</td>
<td>Westgate Mall to Downtown San José</td>
<td>30</td>
</tr>
<tr>
<td>Express 168</td>
<td>Gilroy Transit Center to San José Diridon Station</td>
<td>15-30</td>
</tr>
<tr>
<td>Express 181</td>
<td>Fremont BART Station to San José Diridon Station</td>
<td>15</td>
</tr>
<tr>
<td>Limited 304</td>
<td>Santa Teresa LRT Station to Sunnyvale Transit Center</td>
<td>30-50</td>
</tr>
<tr>
<td>Limited 323</td>
<td>Downtown San José to De Anza College</td>
<td>15</td>
</tr>
<tr>
<td>Rapid 522</td>
<td>Palo Alto Transit Center to Eastridge Transit Center</td>
<td>10-12</td>
</tr>
<tr>
<td>Hwy 17 Express 970</td>
<td>Downtown Santa Cruz/Scotts Valley to Downtown San José</td>
<td>20-35</td>
</tr>
<tr>
<td>Downtown Area Shuttle (201)</td>
<td>Downtown Area Shuttle</td>
<td>5-10</td>
</tr>
</tbody>
</table>

Light Rail Transit Service

The VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The Mountain View/Winchester and Alum Rock/Santa Teresa LRT lines are within walking distance of the project site. The Convention Center LRT station is located less than 500 feet south of the project site on San Carlos Street. The San José Diridon Station is located along the Mountain View/Winchester LRT line and is served by Caltrain, ACE, and Amtrak.
EXISTING TRANSIT FACILITIES

FIGURE 4.17-3

- Site Location
- Caltrain Line and Station
- Light Rail Line and Station
- Local Bus Route
- Community Bus Route
- Limited Stop Bus Routes
- Express Bus Route
- Rapid 522 Bus Route
- Downtown Area Shuttle (DASH) Route
- Monterey to San Jose Express Bus Route
- Highway 17 Express Bus Route
Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain and is accessible from the Diridon Station. The project site is located approximately a quarter-mile east of the Diridon Station. Trains stop frequently at the Diridon Station between 4:28 AM and 10:30 PM in the northbound direction, and between 6:31 AM and 1:38 AM in the southbound direction. Caltrain provides passenger train service seven days a week, and provides extended service to Morgan Hill and Gilroy during weekday commute hours.

Altamont Commuter Express Service

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

Amtrak Service

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

4.17.2 Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4) Result in inadequate emergency access?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would result in less than significant transportation impacts, as described in the following discussion.

**Impact TRN-1:** The project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities. [Same Impact as Approved Project (Less than Significant Impact)]

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**Pedestrian Facilities**

The existing pedestrian facilities within the project area provide connections to the surrounding land uses. As mentioned previously, a complete network of sidewalks is present along all of the surrounding streets, including the project frontages on Park Avenue and Almaden Boulevard. There are crosswalks available at all signalized intersections within the vicinity of the site.

The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development to enhance the pedestrian experience in the Greater Downtown Area. Park Avenue is a designated Downtown Pedestrian Network Street (DPNS) which are intended to support a high level of pedestrian activity as well as retail and transit connections. The DSMP policies state that vehicles crossing the sidewalk are often a safety hazard for pedestrians and that measures should be taken within the design for any new project to minimize the number of curb cuts and widths of driveways. The proposed driveway along Almaden Boulevard would have a curb-cut width of 26 feet which meets the City’s minimum width of 32 feet for two-way driveways. The proposed project would be required to complete pedestrian facility improvements at the southeast corner of the Almaden Boulevard/Park Avenue intersection. The proposed improvements include narrowing Park Avenue to one travel lane in each direction, removal of the existing median island, and signal modifications at the Almaden Boulevard/Park Avenue and Market Street/Park Avenue intersections.

Overall, the existing pedestrian facilities in the area have adequate connectivity and provide pedestrians with adequate connection between the project site and surrounding land uses. Implementation of the proposed project would not conflict with any policies or plans regarding pedestrian facilities or decrease the safety of this facility. [Same Impact as Approved Project (Less Than Significant Impact)]

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**Bicycle Facilities**

The project site is adequately served by existing bicycle facilities. As mentioned previously, there are Class II striped bike lanes along Almaden Boulevard and Park Avenue. Additional Class II bicycle lanes within the vicinity of the project site are listed in *Section 4.17.1.2 Existing Conditions*. The Guadalupe River Trail is located approximately 800 feet west of the site. Implementation of the proposed project would not conflict with any policies or plans regarding bicycle facilities or decrease the safety of this facility. [Same Impact as Approved Project (Less Than Significant Impact)]
Transit Facilities

The project site is in close proximity to major transit services that would support multi-modal travel to and from the project site. The Convention Center LRT station is located less than 500 feet south of the project site on San Carlos Street and the San José Diridon Station is located along the Mountain View/Winchester LRT line. Implementation of the proposed project would not conflict with any policies or plans regarding transit facilities or decrease the safety of this facility. [Same Impact as Approved Project (Less Than Significant Impact)]

Airport Operations

The project would have no impact on air traffic patterns. See Section 4.9 Hazards and Hazardous Materials for a discussion of project compliance with federal aviation regulations. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact TRN-2: The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). [Same Impact as Approved Project (Less than Significant Impact)]

Any development that exceeds the City’s VMT thresholds would be subject to the standard process for evaluating a project’s VMT, as outlined in Policy 5-1. Based on the Downtown Strategy 2040 FEIR, future development within the Downtown would result in low VMT. The proposed project is located within the downtown area which does not exceed VMT per job and residential VMT per capita (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). For these reasons, the project would be exempt from the City’s LOS policy and preparation of a comprehensive Transportation Impact Analysis (TIA) to evaluate the project’s traffic impacts is not necessary. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact TRN-3: The project would not 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)]

The project proposes an ingress/egress driveway along Almaden Boulevard which would provide access to the parking structure. The Almaden Boulevard garage entrance would be restricted to project traffic (office uses) only. The City’s minimum width for two-way driveways is 32 feet for offices. The proposed project would have a driveway curb-cut width of 26 feet which would not meet the City’s requirement. The proposed driveway cut should be widened to meet the City’s requirement.

The City’s standard width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. Access to the hotel parking would also be located within the proposed parking structure via a two-way driveway along the south project frontage. The driveway would be accessible via an existing one-way drive aisle that runs along the project’s southern boundary. Based on information provided by the applicant, only Hyatt Place Hotel guests would have access to the southern driveway. The southern drive aisle width would be approximately 24 feet which does not meet the City’s
minimum width of 26 feet for two-way drive aisles. The southern driveway should be widened to meet the City’s minimum width requirement for two-way drive aisles.

Adequate sight distance should be provided at the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards to avoid collisions and provide drivers with the ability to exit the driveway. Almaden Boulevard has a posted speed limit of 30 miles per hour (mph). The AASHTO stopping sight distance for a roadway with a posted speed limit of 30 mph is 200 feet. A driver exiting the proposed project driveway must be able to see 200 feet to the south along Almaden Boulevard in order to stop and avoid a collision. Based on the proposed site plan, vehicles exiting the project site driveway would be able to see approaching traffic on northbound Almaden Boulevard to the intersection of Almaden Boulevard/San Carlos Street. As a result, the project driveway would meet AASHTO minimum stopping sight distance standards. The project would not substantially increase hazards due to a geometric design feature. [Same Impact as Approved Project (Less Than Significant Impact)]

Impact TRN-4: The project would not result in inadequate emergency access. [Same Impact as Approved Project (Less than Significant Impact)]

The final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. [Same Impact as Approved Project (Less Than Significant Impact)]

4.17.2.1 Operational Transportation Issue Not Covered Under CEQA

Trip Generation Estimates

Vehicle trips generated by the proposed project were estimated using the rates for “General Office Building” (Land Use Code 710) published in the Institute of Transportation Engineers’ (ITE) Trip Generation Manual, 10th Edition (2017). The trip generation rate was applied to the proposed 840,000 square feet of occupiable office space proposed within the building.

Based on the City of San José VMT Evaluation Tool, the project site is located within a designated urban area high-transit area and would qualify for a location-based adjustment. Office developments within urban high-transit areas have a vehicle mode share of 69 percent; therefore, a 31 percent reduction was applied to trips generated by the proposed project.

A summary of the project trip generation estimates is shown below.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Daily</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Proposed Land Uses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Office Building</td>
<td>8,182</td>
<td>838</td>
<td>136</td>
</tr>
</tbody>
</table>

72 An urban high-transit area is characterized as an area with high density, good accessibility, high public transit access, low single-family homes, middle-aged and older housing stock.
Based on the trip generation table above, the project would generate approximately 5,356 net new daily trips with a total of 672 net new daily trips during the AM Peak Hour and 667 net new daily trips during the PM Peak Hour.

**Bicycle Parking**

The proposed project would be required to provide one bicycle parking space per 4,000 square feet of office space. Bicycle parking should consists of at least 80 percent short-term and at-most 20 percent long-term spaces. The project would be required to provide 179 bicycle parking spaces (144 short-term and 35 long-term parking spaces). The project proposes 180 bicycle parking spaces, which exceeds the total minimum number of bicycle parking spaces required.

**Vehicle Parking**

Based on the City’s downtown zoning regulations parking requirement (Table 20-140 of the City’s Municipal Code), the project is required to provide 2.5 off-street parking spaces per 1,000 square feet of office use. Based on the City’s parking requirements, the project would be required to provide 1,785 off-street parking spaces. The project proposes up to 1,630 on-site parking spaces for the proposed office space. In addition, the project proposes replacement parking for the Hyatt Place Hotel. Per the City’s Municipal Code, hotels are required to provide 0.35 parking space per room; therefore, the project would be required to provide 82 parking spaces for the 234-room hotel. The project proposes 125 parking spaces for the hotel which would be located within the below-grade parking structure and would meet the minimum off-street parking requirements for hotel.

Based on 20.90.220.A.1 of the City’s Municipal Code, the project may receive up to a 50 percent reduction in the required off-street parking spaces with a development permit or a development exception if no development permit is required. For an off-street parking reduction of up to 20 percent, the following provisions must be met:

- The structure or use is located within two thousand feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the city's general plan or the use is listed in Section 20.90.220.G; and
- The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

The project site is located within the Downtown core and is within 500 feet of the Convention Center LRT Station. The proposed project would also exceed the City’s bicycle parking requirement. Therefore, the project would qualify for a 20 percent reduction in off-street parking spaces and would meet the City’s off-street parking requirement for office and hotel use.
4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 Regulatory Framework

State

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

Under AB 52, a TCRs are defined as follows:

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

4.18.2 Impact Discussion

<table>
<thead>
<tr>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
</table>

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

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73 See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR “shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).
1. 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)?

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>New Less than Significant Impact with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
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</tbody>
</table>

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

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

**Impact TCR-1:** The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). [Same Impact as Approved Project (Less than Significant Impact)]

**Impact TCR-2:** A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. [Same Impact as Approved Project (Less than Significant Impact)]

The project site is located approximately 0.1 mile east of Guadalupe River, which is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal
cultural resource, the lead agency’s environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City’s Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. The City of San José sent notification of the project on March 8, 2019 and has yet to receive any request for consultation for this project from the Ohlone Tribe or any other tribal representative. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR and project-specific Archaeological Resources Treatment Plan. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. [Same Impact as Approved Project (Less Than Significant Impact)]
4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 Regulatory Framework

State and Regional

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, opportunities for water transfers, and contingency plans for drought events. The City adopted its most recent UWMP in June 2016.

Wastewater

The San Francisco Bay RWQCB includes regulatory requirements that each wastewater collection system agency shall, at a minimum, develop goals for the City’s Sewer System Management Plan to provide adequate capacity to convey peak flows.

Assembly Bill 939 and Senate Bill 1016

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

Assembly Bill 341

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

Senate Bill 1383

Senate Bill (SB) 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.
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.

Local

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 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.

San José Construction & Demolition Diversion Program

More than 30 percent of landfill waste is construction and demolition (C&D) debris. The City’s Construction & Demolition Diversion (CDD) Program ensures that at least 75 percent of this waste is recovered and diverted from landfills.

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.

Envision San José 2040 General Plan

The General Plan includes utility and service systems policies applicable to the proposed project.

Policy MS-1.4: Foster awareness in San Jose’s business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of
environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

*Policy MS-3.1:* Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

*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-3.1:* Achieve minimum level of services:

- For sanitary sewers, achieve a minimum level of service “D” or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.
- For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.

*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-3.9:* Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

*Policy IN-3.10:* Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City’s National Pollutant Discharge Elimination System (NPDES).

### 4.19.2 Existing Conditions

#### Water Services

Water service is provided to the City of San José by three water retailers, San José Water, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by San José Water. The site is currently developed with a vacant lot and the Hyatt Place Hotel parking structure and does not have any water demand.

#### Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary...
sewage collection agencies and is administered and operated by the City of San José’s Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.\(^{74}\) The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant’s effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations.

As mentioned above, the project site is developed with a vacant lot and the Hyatt Place Hotel parking structure. No wastewater is generated on-site. The existing building currently connects to an existing sanitary sewer line along Park Avenue.

**Stormwater Drainage**

The City of San Jose owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into the Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is located approximately 0.1 mile east of Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is 83 percent (62,247 square feet) covered with impervious surfaces. There are existing storm drain lines along Almaden Boulevard and Park Avenue that currently serve the project site.

**Solid Waste**

Santa Clara County’s Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San Jose 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 Jose. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. The project site does not currently generate any solid waste.

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### Impact Discussion

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>New Potentially Significant Impact</th>
<th>New Less than Significant with Mitigation Incorporated</th>
<th>New Less than Significant Impact</th>
<th>Same Impact as “Approved Project”</th>
<th>Less Impact than “Approved Project”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?</td>
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<tr>
<td>2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?</td>
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<td>3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
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<td>4) 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?</td>
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<tr>
<td>5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?</td>
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</tbody>
</table>

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

**Impact UTL-1:** The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. [Same Impact as Approved Project (Less than Significant Impact)]
Water Supply

The proposed development would generate approximately 828,588 gpd of water. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The Downtown Strategy 2040 FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the Downtown Strategy 2040 would not exceed the available water supply.

The proposed project would be consistent with planned growth in the downtown area. In addition, the project would comply with CALGreen requirements and the City’s Private Sector Green Building Policy. As a result, relocation or construction of new or expanded water facilities would not be needed. [Same Impact as Approved Project (Less Than Significant Impact)]

Sanitary Sewer

Implementation of the project would use approximately 787,159 gpd of wastewater. The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. As discussed in the Downtown Strategy 2040 FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. Since the proposed development is consistent with planned growth in the downtown area, the project would not exceed the City’s allocated capacity at the Facility. The project would not result in the relocation or construction of facilities. [Same Impact as Approved Project (Less Than Significant Impact)]

Storm Drainage System

Implementation of the project would increase impervious surfaces on-site by approximately 12 percent (8,823 square feet). The existing storm drainage system has sufficient capacity to support the current site conditions. All new and redevelopment projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCMs consistent with City Policy No. 6-29. Additionally, the project would be required to comply with the RWQCB MRP (refer to Section 4.10 Hydrology and Water Quality). As a result implementation of the proposed project would not require relocation of existing facilities or construction of new facilities. [Same Impact as Approved Project (Less Than Significant Impact)]

Electric Power, Natural Gas, and Telecommunication Facilities

The project would utilize existing utility connections to connect to the City’s electric, natural gas, and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to

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76 It was assumed that the proposed office would generate an indoor/outdoor water demand of 302,434,740 gallons annually. 302,434,740 gallons annually / 365 days per year = 828,588 gallons per day

77 Assumes wastewater is equal to 95 percent of total potable water use on-site.
serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. [Same Impact as Approved Project (Less Than Significant Impact)]

**Impact UTL-2:** The project would not have insufficient 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)]

As discussed under Impact UTL-1, water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Future water demand from full build out of the downtown in 2040 would be approximately 7,533 acre-feet per year (AFY) which represents a 3.19 percent increase over the system wide 2013 water production of 146,776 acre-feet. Although the projected water demand from full build out of the Downtown Strategy 2040 FEIR is large, San José Water concluded that the increase was already accounted for in San José Water’s 2015 UWMP. With implementation of the CALGreen requirements and the City’s Private Sector Green Building Policy, the proposed project would have sufficient water supplies available to serve the project and any reasonably foreseeable future development. [Same Impact as Approved Project (Less than Significant Impact)]

**Impact UTL-3:** The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments. [Same Impact as Approved Project (Less than Significant Impact)]

The proposed project would be consistent with the Downtown Strategy 2040 FEIR and would have adequate capacity to serve the project’s projected demand in addition to the Facility’s existing commitments (please refer to Impact UTL-1).

**Impact UTL-4:** The project would not 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)]

**Impact UTL-5:** Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste? [Same Impact as Approved Project (Less than Significant Impact)]

The project would generate approximately 6,330 pounds of solid waste per day. The Downtown Strategy 2040 FEIR concluded that waste generated by planned growth in the downtown area would not exceed the capacity of existing landfills serving the City of San José. The estimated increases in solid waste generation from development would be avoided through implementation of the City’s Zero Waste Strategic Plan. The Waste Strategic Plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts.

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79 Solid waste generation was estimated at a rate of six pounds per 1,000 square feet per day for office space.
on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. [Same Impact as Approved Project (Less Than Significant Impact)]
4.20 WILDFIRE

Based on the Fire Hazard Severity Zone (FHSZ) Map, the project site is not located within a FHSZ area.

4.20.1 Impact Discussion

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

1) Substantially impair an adopted emergency response plan or emergency evacuation plan?

2) 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?

3) 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?

4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

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

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4.21 MANDATORY FINDINGS OF SIGNIFICANCE

| Impact MFS-1: | The project does not 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. [Same Impact as Approved Project (Less than Significant Impact)] |

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions, standard measures listed in the Downtown Strategy 2040 FEIR, and mitigation measures.

As discussed in Section 4.4 Biological Resources, the project would not impact sensitive habitats or species. The project would be required to comply with the Downtown Strategy 2040 FEIR measures to avoid abandonment of raptor and other protected migratory bird nests. The project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the
SCVHP. The project would be subject to all applicable SCVHP conditions and fees (including the cumulative nitrogen deposition fee).

Construction activities may disturb and uncover subsurface cultural resources on-site. Implementation of the standard measures and Archaeological Resources Treatment Plan would avoid or reduce impacts to cultural resources to a less than significant level.

The project would be required to comply with the Standard Permit Conditions identified in Section 4.7 Geology and Soils and all applicable City regulatory programs related to unknown buried paleontological resources. The project would implement the Standard Permit Conditions listed in Section 4.7 Geology and Soils to reduce construction related erosion impacts. Since the project would require dewatering during construction, the project would be required to comply with the required Downtown Strategy 2040 FEIR measures listed in Section 4.7 Geology and Soils. The existing building and parking structure on-site were constructed in 1975 and 1974, respectively and are likely to contain harmful ACMs or lead. The project would be required to implement the Standard Permit Conditions identified in Section 4.9 Hazards and Hazardous Materials to reduce ACM and/or lead-based paint impacts. Consistent with the standard measures identified in the Downtown Strategy 2040 FEIR, the project would implement Mitigation Measures HAZ-2.1 and HAZ-2.2 to reduce soil and groundwater contamination impacts. Additionally, because the project would be approximately 300 feet tall, the project would be required to be reviewed by the FAA and to grant an Avigation Easement.

As discussed in Section 4.10 Hydrology and Water Quality, the project would be required to implement Standard Permit Conditions to reduce potential construction-related water quality impacts. As discussed in Section 4.13 Noise and Vibration, the project would be required to implement Conditions of Project Approval and the standard measures identified in the Downtown Strategy 2040 FEIR to reduce noise and vibration levels from construction activities to nearby buildings and sensitive land uses. The proposed project would not result in new or more significant impacts than identified in the Downtown Strategy 2040 FEIR.

Impact MFS-2: The project does not have impacts that are individually limited, but cumulatively considerable. [Same Impact as Approved Project (Significant Unavoidable Impact)]

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.”

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

Implementation of the proposed project could result in the loss of 68 trees. Any trees removed would be replaced in accordance to the City’s Standard Tree Replacement Ratios (refer to Table 4.4-1). The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable long-term impact on biological resources.

Earthmoving activities may result in the loss of subsurface prehistoric and historic resources on-site. The project would implement the standard measures and Archaeological Resources Treatment Plan and, as a result, the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

Build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area which would contribute to existing violations of ozone standards and significant GHG emissions under 2040 conditions. The project is consistent with planned growth in the downtown area and would not, by itself, result in significant emissions of criteria air pollutants or GHG. Therefore, the project would not result in a cumulatively considerable impact.

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

**Impact MFS-3:** The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. [Same Impact as Approved Project (Less than Significant Impact)]

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 hazardous materials and noise. Implementation of General Plan policies would, however, reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.
REFERENCES


City of San José. Envision San José 2040 General Plan Integrated Final Program EIR. September 2011

City of San José. Envision San José 2040 General Plan. 2011


City of San José. Envision San José 2040 General Plan. November 2011.


Hexagon Transportation Consultants, Inc. 200 Park Avenue Office Development LTA. September 26, 2019.


SECTION 6.0  LEAD AGENCY AND CONSULTANTS

6.1  LEAD AGENCY

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Department of Planning, Building and Code Enforcement

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David Keyon, Principal Planner
Kara Hawkins, Planner I

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Environmental Consultants and Planners

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Phase I ESA

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Traffic

H.T. Harvey & Associates
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Archaeology