

Initial Study/Addendum

Bassett Street Residential Project (Aviato)

File No. SP17-023 and T17-026



Prepared By

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY



In consultation with



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ENVIRONMENTAL CONSULTANTS & PLANNERS

September 2017



ADDENDUM TO THE BRANDENBURG MIXED USE PROJECT/NORTH SAN PEDRO HOUSING SITES FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003012046); THE SAN JOSE DOWNTOWN STRATEGY 2000 FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003042127); AND THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL ENVIRONMENTAL IMPACT REPORT, SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, AND ADDENDA THERETO (SCH# 2009072096)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to the Brandenburg Mixed Use Project/North San Pedro Housing Sites Final Environmental Impact Report (Brandenburg FEIR); the San Jose Downtown Strategy 2000 Final Environmental Impact Report (Downtown Strategy FEIR); and the Final Environmental Impact Report (General Plan FEIR), Supplemental Program Environmental Impact Report (General Plan SEIR) for the Envision San José 2040 General Plan, and addenda thereto; because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

SP17-023 & T17-026 – 199 Bassett Street (Aviato) Project. Special Use Permit to allow the construction of 302 residential units in an 18-story building and up to 10,146 square feet of retail on a 0.77 gross acre site.

Location: The 0.77-acre project site is comprised of three parcels on the north side of Bassett Street between Terraine Street and North San Pedro Street in downtown San José.

Assessor's Parcel Number: 259-23-005, 259-23-006, 259-51-007

Council District: 3.

The environmental impacts of this project were addressed by the following Final Environmental Impact Reports: "The Brandenburg Mixed Use Project/North San Pedro Housing Sites EIR," adopted by City Council Resolution No. 72170 on June 15, 2004; "The Downtown Strategy 2000 Final Environmental Impact Report," adopted by City Council Resolution No. 72767 on June 21, 2005; "Envision San José 2040 General Plan Final EIR," adopted by City Council Resolution No. 76041 on November 1, 2011; Supplemental Program EIR entitled, "Envision San José 2040 General Plan Supplemental EIR," adopted by City Council Resolution No. 77617 on December 15, 2015, 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 EIRs cited above:

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

ANALYSIS

The Brandenburg FEIR (SCH #2003012046, August 2003) is a program-level environmental document that analyzed the overall development proposed for the 11.11-acre Brandenburg site bounded by the Union Pacific Rail Road (UPRR) Line to the north, Market Street to the east, St. James Street to the south, and State Route (SR) 87 to the west. Of the proposed 16 lots on the site, 14 were assumed to be developed with both residential and commercial space. The Brandenburg FEIR allows for the development of approximately 60,000 square feet of commercial space and 1,500 residential units. The Brandenburg FEIR provided project level information where possible. As of September 2017, approximately 934 of the 1,500 residential units have been approved since the Brandenburg FEIR was certified.

Approximately 934 of the 1,500 residential units have been approved since the FEIR was certified. The project site is identified as area B in the Brandenburg FEIR, which was analyzed with an assumed development potential of 141 residential units. The current project proposes 302 units, 161 units more than the development assumed on site in the Brandenburg FEIR. However, other sites covered by the Brandenburg FEIR have approved Site Development permits (CP11-034, H12-020, H14-002, H14-003, H14-004, and H14-037) with 76 fewer residential units than the development capacity analyzed in the EIR (which assumed 1,010 units on these sites but only 934 units were approved in the PD Permits). The total remaining residential capacity available in the Brandenburg area is approximately 566 units. Therefore, the proposed project is still within the total residential development capacity analyzed in the Brandenburg FEIR. Any development beyond the 1,500 residential units analyzed in the Brandenburg FEIR will be covered under the Downtown Strategy 2000 FEIR.

The Downtown Strategy FEIR was a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of Strategy 2000:

- 11.2 million square feet of office development;
- 8,500 residential dwelling units;
- 1.4 million square feet of retail development; and
- 3,600 hotel rooms.

The project, as proposed, would construct a residential high-rise building with 302 residential units and up to 10,146 square feet of ground floor commercial/retail space. The type and intensity of development proposed is consistent with the anticipated development in the Brandenburg and the Downtown Strategy FEIR.

The General Plan FEIR included the project site in the evaluation for the Downtown land use designation. This designation allows for office, retail, service, residential, and entertainment uses in the Downtown at very high intensities of up to 800 dwelling unit per acre and a floor-area-ratio of up to 30.0. The project conforms to the Downtown General Plan land use designation in that it proposes high-density residential and commercial uses, consistent with the Envision San José 2040 General Plan and the General Plan FEIR and General Plan SEIR.

As analyzed in the attached Initial Study, the project would comply with the Greenhouse Gas Reduction Strategy identified in the 2040 General Plan and would not result in greenhouse gas emission impacts beyond those identified in the General Plan EIR and SEIR.

No new or more significant environmental impacts beyond those identified in the Downtown Strategy EIR, General Plan FEIR, and General Plan SEIR have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIRs been identified. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR is not required and an Addendum to the Brandenburg FEIR, Downtown Strategy FEIR, General Plan FEIR, General Plan SEIR, 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 previous mitigation measures and the revised project. This addendum (including Initial Study) will not be circulated for public review, but will be attached to the Brandenburg FEIR, Downtown Strategy FEIR, General Plan FEIR, and General Plan SEIR as supplemented pursuant of CEQA Guidelines §15164(c).

Thai-Chau Le
Environmental Project Manager

Rosalynn Hughey, Interim Director
Planning, Building and Code Enforcement

9/29/17

Date



Deputy

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Appendix B:	Geotechnical Investigation Report
Appendix C:	Phase I Environmental Site Assessment
Appendix D:	Vibration Assessment

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE ADDENDUM

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

In 2003, the City approved the Brandenburg Mixed-Use Project/North San Pedro Housing Sites project. The 11.11-acre Brandenburg site is comprised of approximately 16 lots in the downtown core of San José, bounded by the Union Pacific Rail Road (UPRR) Line to the north, Market Street to the east, St James Street to the south, and State Route (SR) 87 to the west. Of the 16 lots, 14 were assumed to be developed with both residential and commercial space. The Brandenburg Mixed-Use Project/North San Pedro Housing Sites project allows for the development of approximately 60,000 square feet of commercial space and 1,500 residential units.

The Brandenburg Mixed-Use Project/North San Pedro Housing Sites Environmental Impact Report (SCH #2003012046, August 2003) (Brandenburg FEIR) is a program-level environmental document that analyzed the overall development proposed for the 16 lots. The Brandenburg FEIR provided project level information where possible. Approximately 934 of the 1,500 residential units have been approved since the FEIR was certified. The project site is identified as area B in the Brandenburg FEIR, which was analyzed with an assumed development potential of 141 residential units. The total remaining residential capacity available in the Brandenburg area is approximately 566 units. The project proposes 302 residential units, which is 161 units more than the development assumed on area B in the Brandenburg FEIR. Other sites under the Brandenburg FEIR have approved planning permits with fewer residential units than the development capacity analyzed in the FEIR. The proposed development on this site would be within the 1,500 residential unit capacity as identified and analyzed in the Brandenburg FEIR.

On June 21, 2005, the City Council certified the Downtown Strategy FEIR (Resolution No. 72767) and adopted the Downtown Strategy Plan which provided a vision for future housing, office, commercial, and hotel development within the Downtown area consistent with the San José 2020 General Plan. The Downtown Strategy plan is a strategic redevelopment plan that initially anticipated a planning horizon of 2000-2010 that focused on the revitalization of Downtown San José by supporting higher density infill development and replacement of underutilized properties. While the planning horizon of the Downtown Strategy was 2010, implementation of the plan was delayed due to economic conditions including the Recession of 2008. As part of the 2005 Downtown Strategy FEIR's analysis, the traffic analysis projected traffic conditions to 2020, which has turned out to be a more realistic timeframe for full implementation of the plan.

The existing Downtown Strategy has a development capacity of 8,500 residential units, with 7,500 allowed in Phase 1. At the time this IS/Addendum was completed, the development capacity had not been met including constructed, approved, and projects currently on file.

The original Downtown Strategy FEIR evaluated all environmental impacts, including traffic, noise, air quality, biological resources, and land use at a program (General Plan) level. The program-level environmental impacts were updated as part of the General Plan FEIR, certified in September 2011 and supplemented in December 2015. Therefore, the 302 residential units included in the proposed project have been evaluated in the original Downtown Strategy FEIR at a program-level, which remains current.

Further, an IS/Addendum to the Downtown Strategy FEIR was prepared in July 2016 which updated traffic conditions a decade after the Downtown Strategy FEIR was certified, and determined that no new impacts would occur related to the construction of Phase 1 of the Downtown Strategy (7,500 residential units). Utilizing 2014-2015 traffic counts and the City's updated CUBE model, it was determined that up to 7,500 units could be constructed within downtown without resulting in new or different traffic impacts than had been disclosed in the Downtown Strategy FEIR. For this reason and those described above, the Downtown Strategy FEIR continues to be an accurate evaluation of program-level impacts of proposed Phase 1 development projects Downtown, of which this project is a part.

The Downtown Strategy FEIR was a broad range, program-level environmental document. All subsequent development that has occurred as part of the Downtown Strategy plan has had project specific supplemental environmental review. While traffic impacts of the Downtown Strategy were evaluated at a project- or site-specific level and recently updated in 2016, the Downtown Strategy 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.

In 2011, the City of San José approved the General Plan, which is a long-range program for the future growth of the City. The General Plan FEIR was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. The City of San José also approved an Envision San José 2040 Plan Supplemental FEIR (General Plan SFEIR) for the General Plan to include and update the greenhouse gas emissions analysis in December 2015.

This IS/Addendum has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy plan and the General Plan. In accordance with CEQA, this IS/Addendum would tier from the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, and addenda thereto.

This IS/Addendum and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, 3rd floor, during normal business hours.

1.2 NOTICE OF DETERMINATION

If the project is approved, the City of San José shall file a Notice of Determination (NOD), which shall 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

Bassett Street Residential Project (Aviato)

2.2 LEAD AGENCY CONTACT

City of San José
Planning, Building and Code Enforcement
Thai-Chau Le
Thai-Chau.Le @sanjoséca.gov
(408) 535-5658
200 East Santa Clara Street
San José, CA 95113

2.3 PROJECT APPLICANT

KT Urban

2.4 PROJECT LOCATION

The 0.77-acre project site is comprised of three parcels on the north side of Bassett Street between Terraine Street and North San Pedro Street in downtown San José. The location of 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 Photograph and Surrounding Land Uses

2.5 ASSESSOR'S PARCEL NUMBER

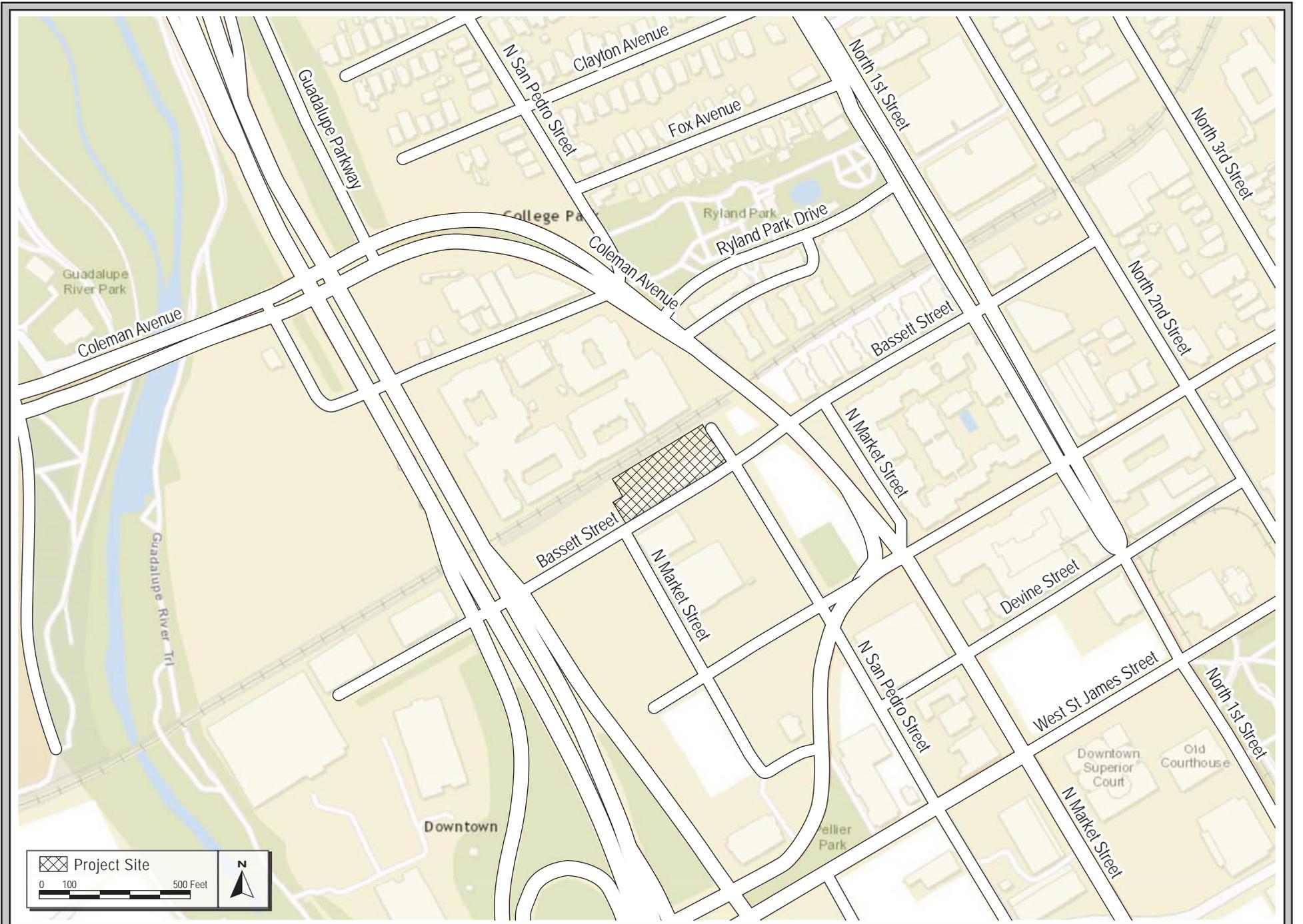
259-23-005
259-23-006
259-51-007

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site is designated *Downtown* under the City of San José's General Plan and has a zoning designation of *DC – Downtown Commercial*.

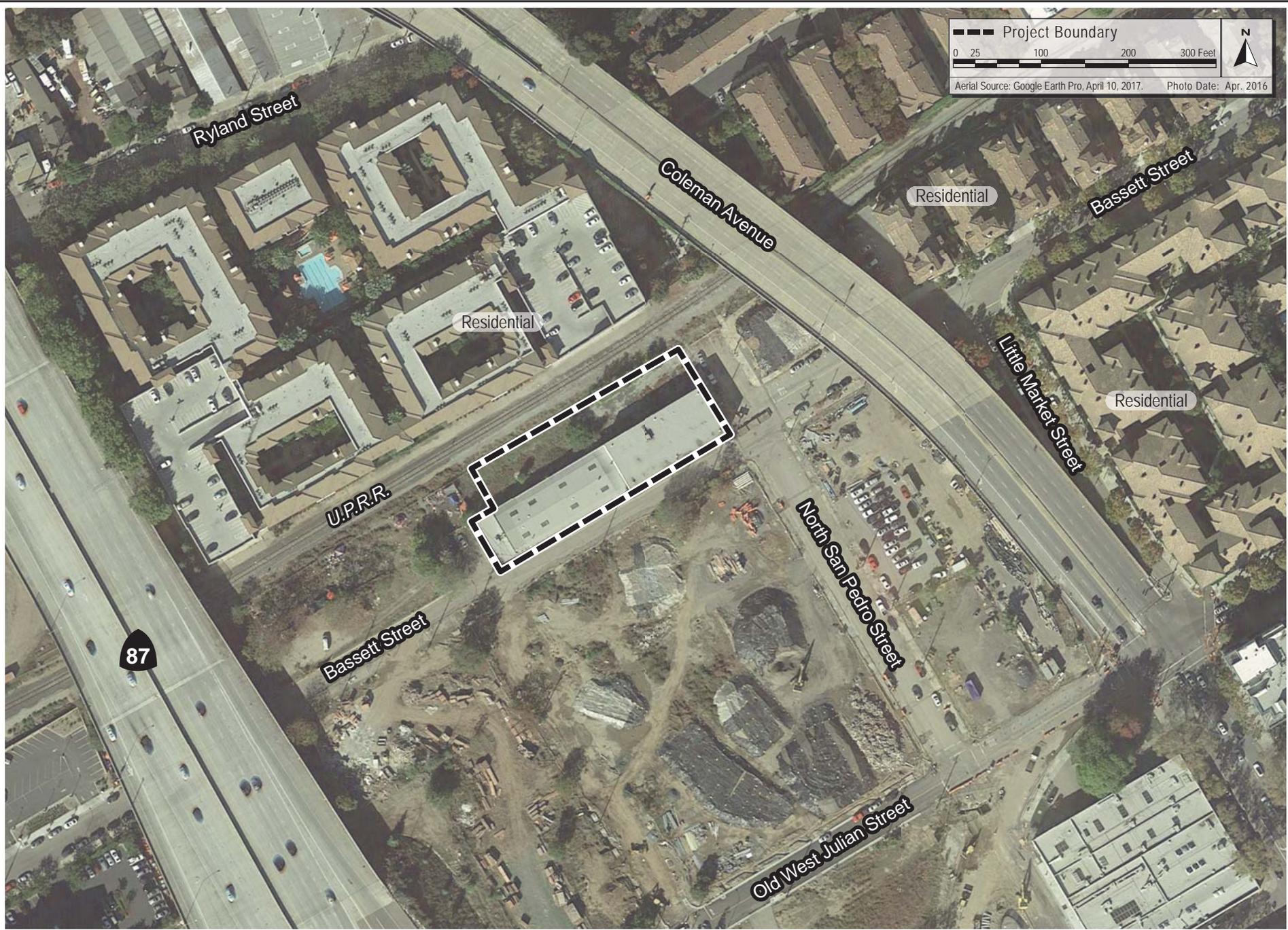
2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Tentative Map
- Demolition, Grading, Building, and Occupancy Permits
- Special Use Permit
- Other Subsequent Public Works Clearance



VICINITY MAP

FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION AND INFORMATION

3.1 PROJECT DESCRIPTION

The 0.77-acre project site is comprised of three parcels (APNs 259-23-005, 259-23-006, and 259-51-007) located on Bassett Street between Terraine Street and North San Pedro Street in downtown San José. The site is currently developed with two commercial/warehouse buildings. The project site is designated *Downtown* under the City’s General Plan and has a zoning designation of *DC – Downtown Commercial*.

As proposed, the project would demolish the existing buildings (totaling approximately 26,800 square feet) and construct an 18-story tower with up to 302 residential units and approximately 7,821 square feet of ground floor retail. (See Figure 3.0-1 Ground Level Site Plan) The project would have a density of approximately 392 dwelling units per acre (du/ac) and would be approximately 183 feet tall to the roof line and 195 feet tall to the top of the rooftop mechanical screening. (See Figures 3.0-2 to 3.0-4)

The project proposes approximately 7,821 square feet of retail space of which 1,996 square feet would be restaurant and 5,825 square feet would be retail space. In addition, there would be a 1,458 square foot leasing office and a lobby. The total non-residential square footage on the first floor would be approximately 10,150 square feet. Entrance to the lobby, leasing office, and retail space would be located on the first floor along Bassett Street. An approximately 2,652 square foot fitness area located at the northwest corner of the site is proposed on the second floor. A common terrace area and amenity space is proposed on the southwest corner of the fifth floor. A pool deck and a common terrace area is proposed on the 17th floor.

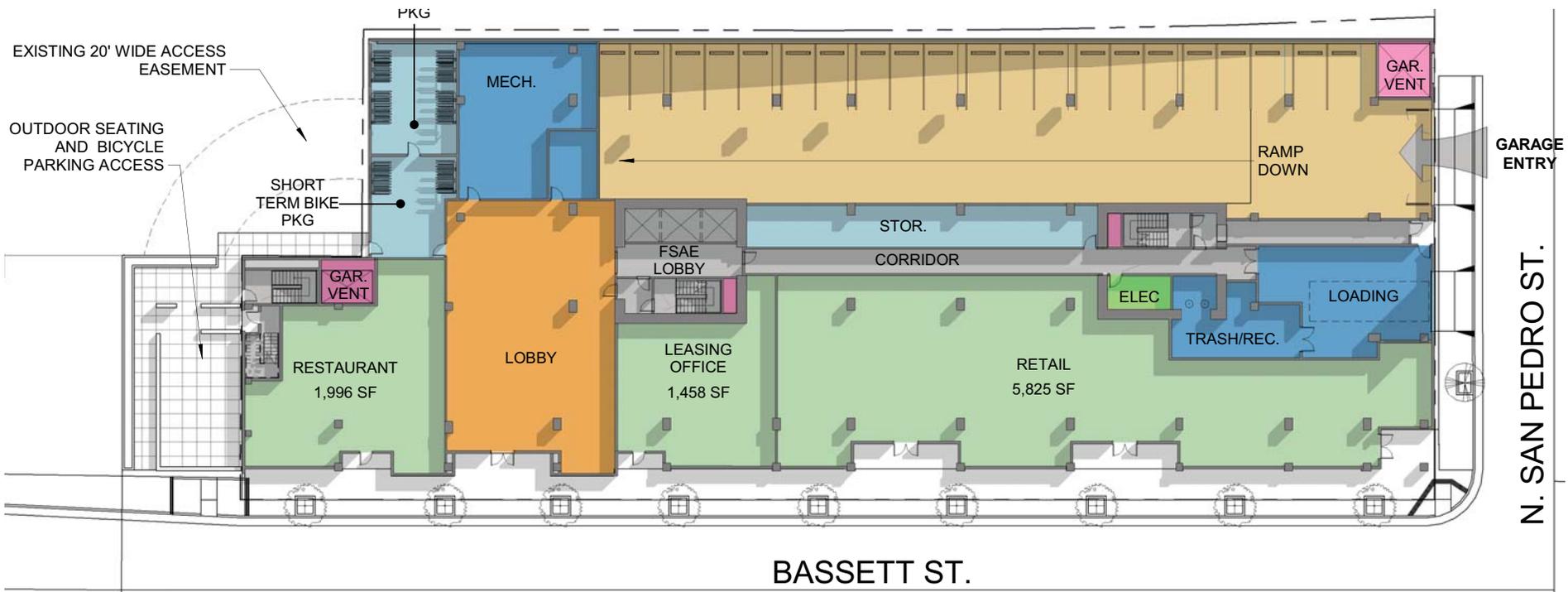
Three retail parking stalls (behind the retail space) are proposed on the first floor. In addition, the project proposes four levels of below-grade parking which would contain approximately 302 parking stalls.

Vehicular access to the project site is currently provided via two roadways, one at the Bassett Street and Terraine Street intersection and one on North San Pedro Street. The two driveways would be removed and replaced with a full access driveway on North San Pedro Street, which would provide access to the parking structure. Pedestrian access to the site would be provided via existing sidewalks along Bassett Street.

3.2 GENERAL PLAN AND ZONING DESIGNATION

As mentioned above, the project 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.

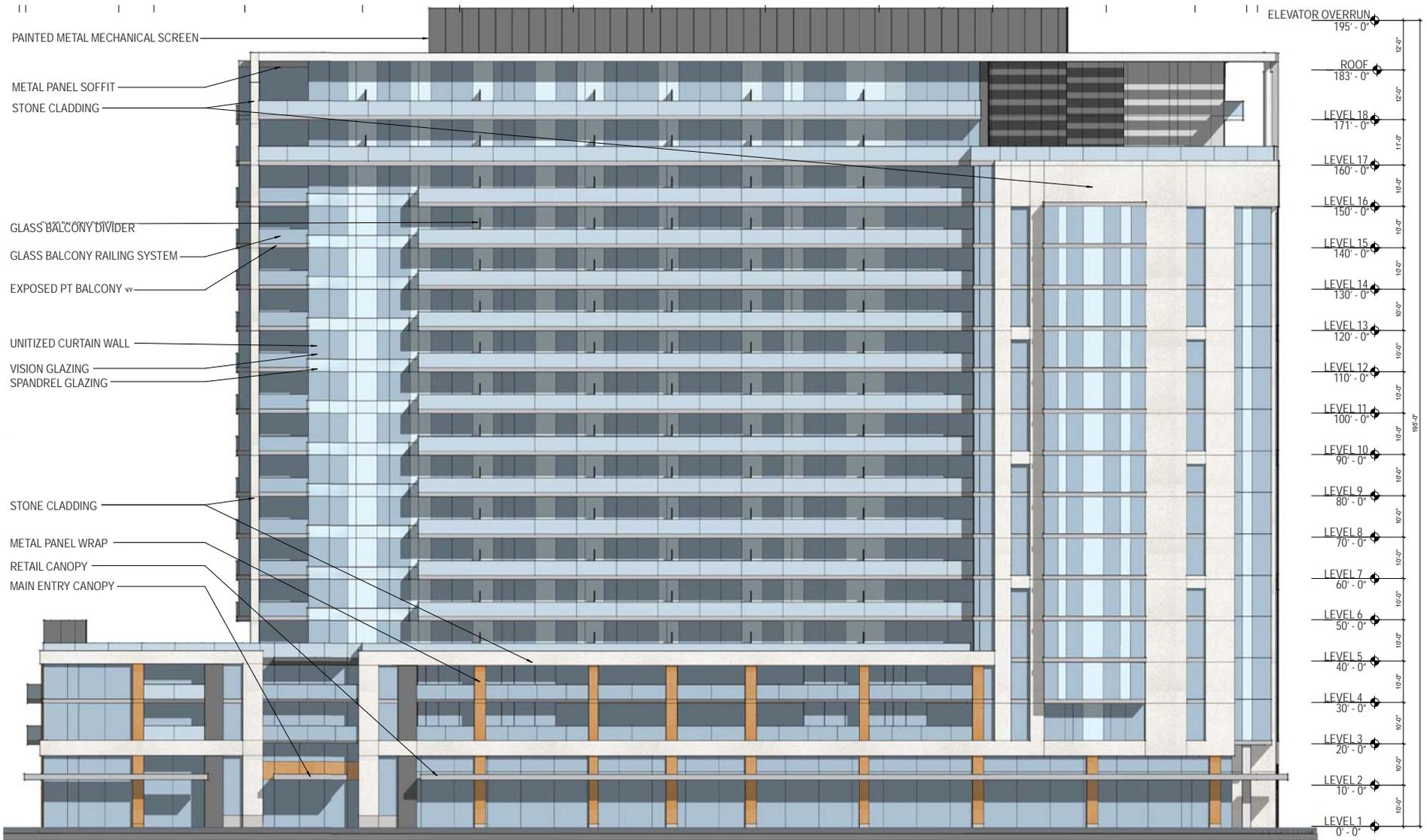


 ACCESSORY AREAS	 HOUSING
 AMENITY AREAS	 MECHANICAL
 CIRCULATION	 PARKING
 ELECTRICAL	 RETAIL/ COMMERCIAL

Source: C2K Architecture, Inc.

GROUND LEVEL SITE PLAN

FIGURE 3.0-1

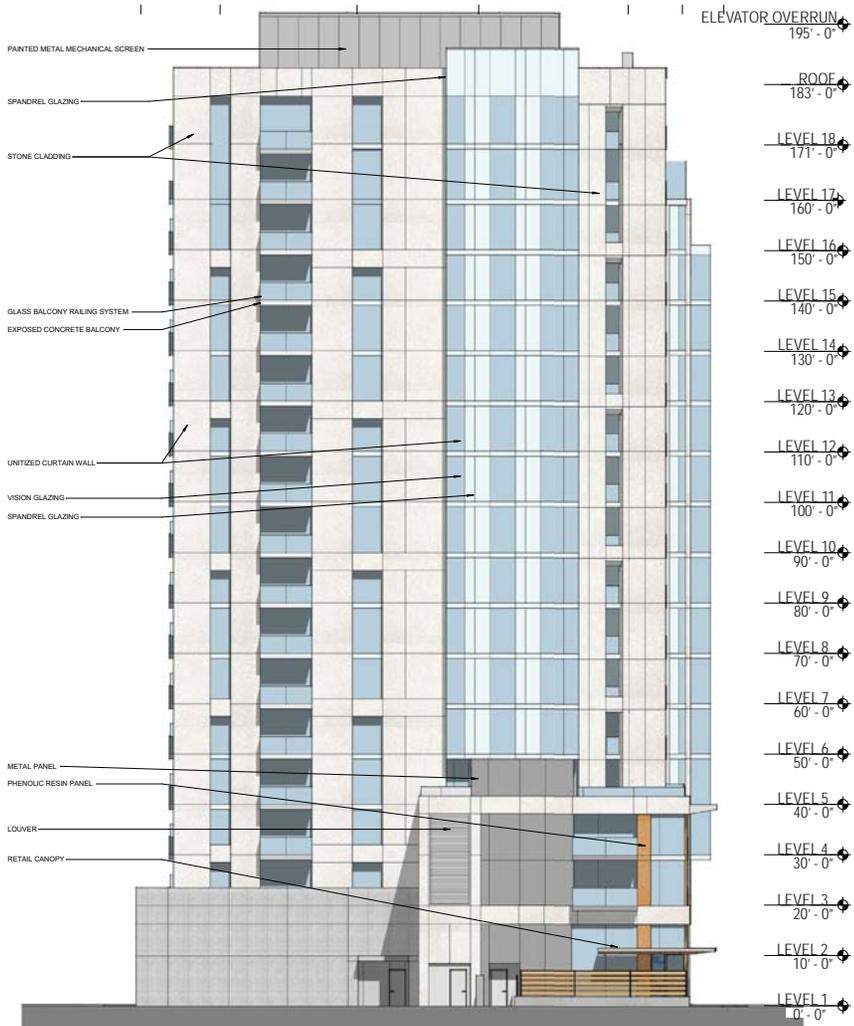


Bassett Street View

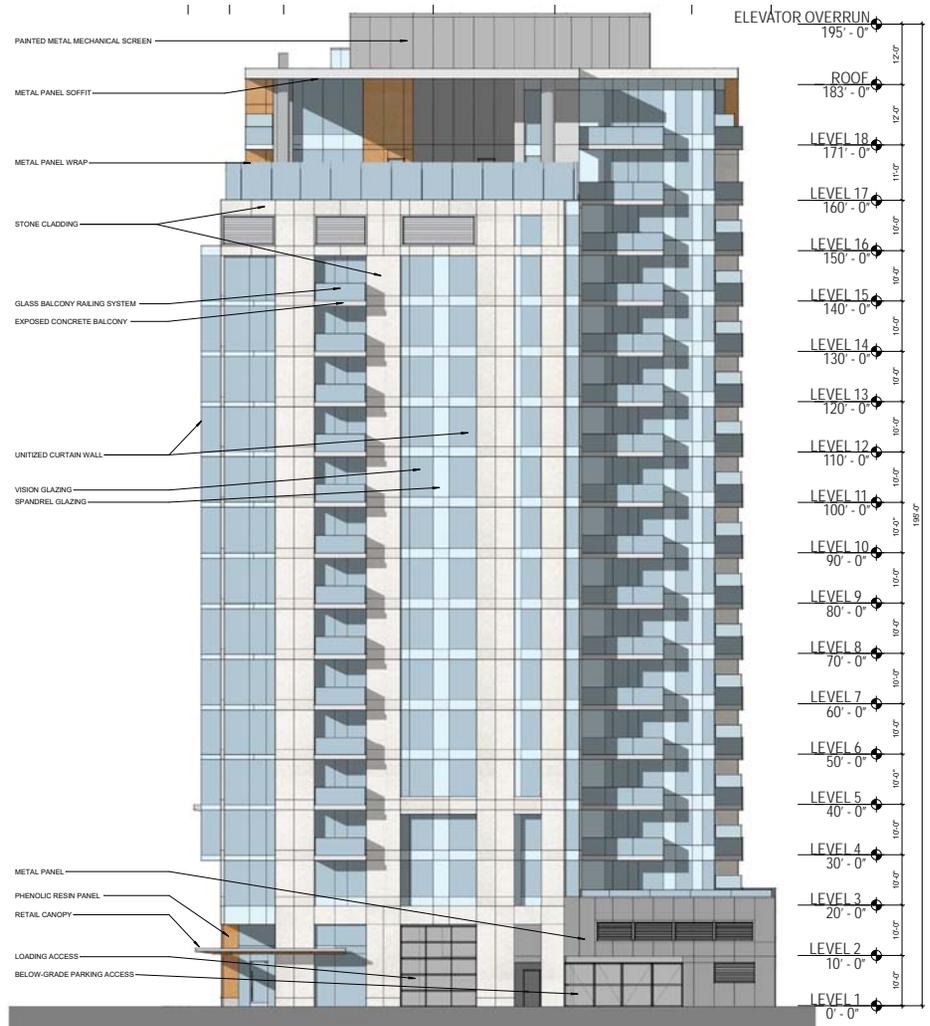
Source: C2K Architecture, Inc., July 28, 2017.

BUILDING ELEVATION

FIGURE 3.0-2



Terraine Street View



North San Pedro Street View

Source: C2K Architecture, Inc., July 28, 2017.

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 – Downtown Commercial 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.

The project would require a Special Use Permit (SUP) for the proposed commercial condominium units. The proposed project would be consistent with the City's General Plan and zoning designation. Please refer to Section 4.10 Land Use and Planning for a complete discussion of the project's consistency with the General Plan and zoning designation.

As stated in Municipal Code Section 20.170.080, "Condominium" is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate for life.
3. An estate for years, such as a leasehold or subleasehold.

Additionally, accordance to Municipal Code Section 20.170.090, a "condominium project" or "residential condominium project" is the conversion of an existing structure to a condominium containing four or more condominiums for residential purposes.

3.3 GREEN BUILDING MEASURES

The proposed project would be required to build to the California Green Building Code, which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be designed to achieve minimum Leadership in Energy and Environmental Design (LEED) certification consistent with San José Council Policy 6-32.

As proposed, the project would include the following green building design features:

- High performance glazing to reduce solar heat gain to the interior of the building, thereby reducing the energy required for cooling.
- Optimized envelope to ensure proper levels of insulation are provided in all surfaces to reduce the overall energy use of the building.
- Use of daylighting which would rely on sunlight for lighting of interior common spaces through the use of photoelectric sensors that reduce the artificial light levels when adequate daylight is sensed, thereby reducing electric power use.
- High efficiency water-source heat pumps with a higher Seasonal Energy Efficiency Ratio (SEER) value than industry standard to recognize energy savings of 15 to 20 percent.

- Variable-speed pumping systems for domestic cold water which would turn back the pumping flow when demand for water is low, thereby reducing power required for pumping.
- Condensing boilers for domestic hot water which would operate at higher efficiencies (90 to 96 percent) than industry standard (80 percent), reducing the use of natural gas.
- Garage exhaust fans with CO based controls would operate at full flow only when carbon monoxide from vehicle exhaust is detected, eliminating the need for exhaust fans to run continuously at full flow.

3.4 CONSTRUCTION

It is anticipated that the project would be constructed over an approximate 22 month period beginning in May 2018.

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	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise and Vibration
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	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 includes a checklist for determining potential impacts and discusses the project’s environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that would minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.
- **Conclusion** – This subsection provides a summary of the project’s impacts on the resource.

Important Note to the Reader

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

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

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

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Project Site*

The site is currently developed with two, one- to two-story commercial/warehouse buildings (see Photo 1). The one-story building, located at the southwest corner of the project site, is primarily stucco with a flat roof. There are two metal garage doors located along the southern building façade. Located on the southeastern corner of the project site is a two-story commercial/warehouse building. The building has one metal garage door on the southern and northern building façades. The site is not currently occupied and has not been maintained (see Photo 2). A storage surface lot is located on the northern portion of the project site, which is bordered by a chain-link fence with barbed wire. There are trees and overgrown vegetation along the chain-link fence and on-site. It appears that the parking lot is being used as a staging area for the construction project across Bassett Street.

4.1.1.2 *Surrounding Land Uses*

Full build out of the Brandenburg project would result the development of approximately 60,000 square feet of commercial space and up to 1,500 residential units. In addition, build out of the Brandenburg project would result in modification of the existing roadway network within the project area. Currently, some of the roads within the vicinity of the project site are being reconfigured and repaved. As a result, paving has been removed on some roadway segments including the section of Bassett Street adjacent to the project site. The parcels located immediately south of the project site are currently under construction. The residential project (File No. H12-020) south of the site is constructing 381 units with a maximum height of 71 feet.¹ The adjacent parcel located southwest of the project site is currently undeveloped and is being used for construction staging. The southwest parcel has been approved for an 18-story building with approximately 313 residential units and ground floor retail (File No. H14-0367). Photos 3 to 5 show the surrounding land uses.

Located immediately north of the project site is the UPRR rail line and a four-story multi-family apartment complex. The apartment complex is primarily white stucco with Spanish-tile roofs (see Photo 6).

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 minimal to 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.

¹ City of San José. *Search for Permit, Property or Zoning Information*. Accessed June 21, 2017. <<https://www.sjpermits.org/permits/general/combinedquery.asp>>.



PHOTO 1: View of the project site, looking northeast on Bassett Street.



PHOTO 2: View of the project site, looking south on the project site.



PHOTO 3: View of the surrounding land uses, looking northeast on Bassett Street.



PHOTO 4: View of the surrounding land uses, looking south on Bassett Street.



PHOTO 5: View of the surrounding land uses, looking west on the project site.



PHOTO 6: View of the project site and surrounding land uses, looking north on the project site.

4.1.1.4 *Applicable Aesthetics Regulations and Policies*

The General Plan includes the following aesthetic 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-1.7: 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-1.8: 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-1.11: 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 black 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-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or 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-1.18: Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.

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

4.1.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

4.1.2.1 Scenic Vistas and Resources (Checklist Questions a and b)

Most of the City is relatively flat and prominent views, other than of buildings, are limited. The project area, in particular, has minimal to no scenic views due to the existing built environment and lack of designated scenic resources. The project site is currently developed with one- and two-story buildings. The nearby properties are undeveloped, under construction, or developed with buildings ranging from one to 16 stories in height. The construction of an 18-story residential tower on-site would not significantly diminish scenic views in the project area or damage any designated scenic resources. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.2.2 Visual Character (Checklist Question c)

The proposed project site is located in an area that is not highly visible, except from Highway 87. Any new construction on this site will be visible from the highway and the surrounding properties.

As outlined above, the project site is in a highly urbanized area and is surrounded with a multitude of architectural styles and building heights.

The proposed 18-story tower would be comparable to the North San Pedro Tower 3, which is an 18-story residential tower approved to the southwest of the site (File No. H14-037), which the City deemed consistent with the visual character of the City. The General Plan FEIR concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José; and implementation of applicable policies and regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character of the City. In addition, the project would be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy. As a result, the proposed project would have a less than significant impact on the visual character of the City. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Light and Glare

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 General Plan FEIR concluded that while new development and redevelopment under the General Plan would create new sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts. The proposed project would go through a design review process, prior to issuance of building permits, and would be reviewed for consistency with the City's Design Guidelines, including guidelines on building lighting and materials. The General Plan FEIR concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare; however, implementation of the General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 Conclusion

Implementation of the proposed project would have the same less than significant aesthetic impact as previously identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

The project site is located in a developed, urban area of downtown 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.² There is no forest land uses on or adjacent to the project site. The site is not subject to a Williamson Act contract.

4.2.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-6
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-6
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

² California Natural Resources Agency. *Santa Clara County Important Farmlands 2014*. Accessed April 10, 2017. <[ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/sc114.pdf](http://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/sc114.pdf)>.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

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

4.2.2.1 *Impacts to Agricultural and Forest Resources (Checklist Questions a – e)*

Implementation of the project would result in construction of an 18-story residential tower with up to 302 units and ground floor retail. 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. There are no forest lands on or adjacent to the project site and, therefore, the project 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)]**

4.2.3 Conclusion

The project would have no impacts on agricultural or forest lands, consistent with the findings of the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based in part on an Air Quality Assessment prepared by *Illingworth & Rodkin, Inc.* in July 2017. A copy of this report is attached in Appendix A.³

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Background*

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.

The Bay Area Air Quality Management District (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), ground level ozone (O₃), nitrogen dioxide (NO₂), and suspended particulate matter (PM₁₀ and PM_{2.5}). As shown in Table 4.3-1, violations of State and Federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2013-2015 period (the most recent years for which data is available) include ozone, PM_{2.5}, and PM₁₀.^{4,5}

Table 4.3-1: Ambient Air Quality Standards Violations and Highest Concentrations				
Pollutant	Standard	Days Exceeding Standard		
		2014	2015	2016
SAN JOSÉ STATION				
Ozone	State 1-hour	0	0	0
	Federal 8-hour	0	2	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM ₁₀	Federal 24-hour	0	0	0
	State 24-hour	1	1	0
PM _{2.5}	Federal 24-hour	2	2	0

The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level O₃, State standards for PM₁₀, and Federal standards for PM_{2.5}. Based on air quality monitoring data, the California Air Resources Board (CARB) has designated Santa Clara County as a “nonattainment area” for O₃ and PM₁₀ under the California Clean Air Act (CAA). The County is either in attainment or unclassified for other pollutants.

³ Please note the number of units and the square footage of ground floor retail has decreased since the air quality analysis was completed. Therefore, the calculations in the air quality analysis were conservatively overestimated.

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

⁵ Bay Area Air Quality Management District. “Annual Bay Area Air Quality Summaries.” Accessed April 25, 2017. <<http://www.baaqmd.gov/about-air-quality/air-quality-summaries>>.

4.3.1.2 Toxic Air Contaminants

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs) under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs tend to be localized and are found in relatively low concentrations; however, exposure to low concentrations over long periods can result in adverse chronic health effects.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). Diesel is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of diesel particulate matter (DPM).

4.3.1.3 Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to pollutant exposure (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, parks, and places of assembly.

The nearest noise sensitive receptors to the project site are the residences located approximately 58 feet north of the project site.

4.3.1.4 Applicable Air Quality Regulations and Policies

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-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy MS-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-13.2: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board’s air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,7,8
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,7,8
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-5,7,8
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,8

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant air quality impacts, as described below.

4.3.3 CEQA Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City of San José has carefully considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin

and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
Fugitive Dust (PM ₁₀ /PM _{2.5})	BMPs	None	None
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.3 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.8 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Sources: BAAQMD CEQA Thresholds Options and Justification Report (2009) and BAAQMD CEQA Air Quality Guidelines (dated May 2017).			

Impacts to the Project

The California Supreme Court issued an opinion that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards (i.e., impacts to a project) unless the project would exacerbate existing environmental hazards.⁶ Specific circumstances where CEQA does require the analysis of exposing new populations to environmental hazards include the location of development near airports, schools near sources of toxic contamination, and certain infill and workforce housing.⁷ The proposed project does not fall under any of these situations.

Nevertheless, the City of San José has policies that address existing air quality conditions affecting a proposed project, which are discussed below. The criteria used by the City for determining whether

⁶ California Supreme Court published opinion in *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478), filed December 17, 2015.

⁷ Although CEQA does not generally require an evaluation of the effects of existing hazards on future users of the proposed project, it calls for such an analysis in several specific contexts involving certain airport (Public Resources Code Section 21096) and school construction projects (Public Resources Code Section 21151.8), and some housing development projects (Public Resources Code subsection 21159.21, subs.(f), (h), 21159.22, subs. (a), (b)(3), 21159.23, subd. (a)(2)(A), 21159.24, subd. (a)(1), (3), 21155.1, subd. (a)(4), (6)).

new receptors would be affected are the same as those listed for Project Health Risk and Cumulative Health Risk in Table 4.3-2, above.

4.3.3.1 Bay Area 2017 Clean Air Plan Consistency (Checklist Question a)

BAAQMD’s most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely-related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the State of California, the 2017 CAP lays the groundwork for BAAQMD’s long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The consistency of the proposed project with the 2017 CAP is primarily a question of consistency with the population/employment assumptions utilized in developing the 2017 CAP, which were based on ABAG Projections.

The 2017 CAP includes 85 control measures that are intended reduce air pollutant emissions in the Bay Area either directly or indirectly. These control measures are divided into nine categories that include:

- Stationary Sources;
- Transportation;
- Energy;
- Agriculture;
- Water;
- Waste;
- Buildings;
- Natural and Working Lands; and
- Super-GHG Pollutants

The consistency of the project is evaluated with respect to each set of applicable control measures in Table 4.3-3 below.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
<i>Transportation Measures</i>		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include bicycle parking consistent with City standards. In addition, the project site has been designed to be pedestrian oriented with ground floor retail uses. The existing pedestrian facilities would provide future occupants with a safe connection between the project site and the surrounding land uses. The project is consistent with this measure.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
<i>Building Measures</i>		
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City’s Green Building Ordinance and the most recent California Building Code which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
<i>Natural and Working Lands Measures</i>		
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.

The project includes transportation, building, and natural and working lands measures and is consistent with the population projections in the 2017 CAP. The project is also consistent with the City’s General Plan. The project, by itself would not result in a significant impact related to consistency with the Bay Area 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.2 Impacts to Regional and Local Air Quality (Checklist Questions b and d)

Operational Criteria Pollutant Emissions

The Brandenburg FEIR concluded that the entire 11.11 acre site would result in a significant unavoidable criteria pollutants impact. The Brandenburg FEIR identified mitigation measures (based on BAAQMD Guidelines at the time) to reduce emissions associated with the project, including providing neighborhood-serving retail and services, transit and shuttle services, bicycle lanes and improved pedestrian facilities, secure bicycle parking, and other transportation demand management measures. With implementation of the measures, the Brandenburg project’s regional air quality impacts would remain significant and unavoidable.

Since completion of the Brandenburg FEIR, BAAQMD has developed screening criteria to provide a conservative indication whether a project would result in potentially significant air quality impacts from criteria pollutant emissions. For operational impacts, the screening size for high-rise apartments is 510 dwelling units. Apartments of smaller size are assumed to have a less than

significant operational impact. The proposed project would result in the construction of an 18-story, 302-unit residential building, which is below the screening size for the proposed land use.

In addition, an air quality assessment was completed to address operational air quality impacts from the proposed development on-site. Full operation of the site was assumed to occur in 2020. Table 4.3-4 shows estimated daily air emissions from operation of the proposed project using CalEEMod.

Table 4.3-4: Operational Emissions for the Project				
Description	ROG	NOx	PM₁₀	PM_{2.5}
<i>Tons Per Year</i>				
2020 Project	1.98	1.98	1.35	0.39
BAAQMD Thresholds	10	10	15	10
<i>Exceed BAAQMD Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>Pounds Per Day</i>				
Project Operational Emissions	10.8	10.8	7.4	2.1
BAAQMD Thresholds	54	54	82	54
<i>Exceed BAAQMD Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

As shown in Table 4.3-4 above, the average emissions of ROG, NOx, PM₁₀ exhaust, and PM_{2.5} exhaust associated with the proposed project would not result in in ROG, NOx, PM_{2.5}, and PM₁₀ emissions above the established thresholds. As a result, the proposed project would have a less than significant operational criteria pollutant emissions impact. In addition, the project is part of the planned growth in the downtown area and would not result in any new impacts or impacts of greater severity were already disclosed in the Brandenburg FEIR, the General Plan FEIR, and the Downtown Strategy FEIR, or addenda thereto. The project would, however, contribute cumulatively to the significant operational emissions impact identified in the Brandenburg and Downtown Strategy FEIR's. **[Same Impact as Approved Project (Significant Impact)]**

Operational Emissions – Carbon Monoxide Emissions

Carbon monoxide (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. In addition, any intersections affected by the project would not cause any intersections to exceed BAAQMD's screening criteria of 44,000 vehicles per hour. The number of trips generated by the project (2,218 new daily trips)⁸ is insufficient to increase the traffic volume at any intersection above the screening criteria. Implementation of the project would not result in significant CO emission impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

⁸ Based on the "Apartments" and "Retail" land use rates contained in the San José TIA Handbook, August 2009. Please note the number of traffic trips generated by the project does not include any internalization reduction in trips for the mix of uses on-site. As a result, the total daily traffic trips are slightly overstated.

4.3.3.3 Construction Air Quality Impacts (Checklist Questions b, and d)

Construction Period Emissions – Criteria Pollutants

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of DPM, organic TACs, and PM_{2.5}, which are regulated air pollutants. As mentioned previously, the nearest sensitive receptors are located approximately 58 feet north of the project site. To quantify the effects of project construction on nearby sensitive receptors, construction period criteria pollutant emissions were computed using the California Emissions Estimator Model (CalEEMod) Version 2016.3.1. The analysis assumed construction of the project would be built out over a period of 23 months (approximately 506 construction workdays), beginning in May 2018. Table 4.3-5 below show the average daily emissions from criteria pollutants during the 506-day construction period.

Table 4.3-5: Construction Period Criteria Pollutant Emissions				
Scenario	ROG	NO_x	PM₁₀	PM_{2.5}
2018 Construction Emissions (tons per year)	0.21	2.57	0.07	0.06
2019 Construction Emissions (tons per year)	0.29	2.27	0.09	0.08
2020 Construction Emissions (tons per year)	2.26	0.32	0.01	0.01
Total Construction Emissions (tons)	2.76	5.16	0.17	0.15
Average Daily Emissions (pounds per day)	10.9	20.4	0.7	0.6
BAAQMD Thresholds (pounds per day)	54	54	82	54

Construction of the project would involve demolition of two buildings, excavation for the underground parking, site grading, trenching, paving, building construction, and architectural coating. As shown in Table 4.3-5, the emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust associated with construction of the project would not exceed the BAAQMD significance thresholds and, therefore, would not result in a significant impact from construction emissions. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Dust Generation

As identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, construction dust could affect local air quality at various times during construction of the project. Construction activities on-site would include building demolition, excavation, grading and site preparation, trenching, building construction, and paving which may generate dust and other particulate matter. Currently, the nearest sensitive receptors are located approximately 58 feet north of the project site. The generation of dust and other particulate matter could temporarily impact nearby sensitive receptors. Consistent with City policies, mitigation measures, and control measures identified in the FEIRs, the project shall implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded area, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- 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.
- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- 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.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- 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 Standard Permit Conditions, 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

A community risk assessment of construction activities was completed to evaluate emissions of DPM and PM_{2.5}. Currently, the closest sensitive receptors are located approximately 58 feet north of the project site. Additional sensitive receptors could be located within 100 feet of the project site if approved residential development to the south and southwest is constructed prior to the proposed project. To quantify the effects of DPM on the nearby sensitive receptors, construction period exhaust emissions were computed using the CalEEMod model. The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM and PM_{2.5} concentrations at existing sensitive receptors in the vicinity of the project site. The models, assumptions, and results are described further in Appendix A.

Neither BAAQMD nor the City of San José have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts are used by the City. Based on the BAAQMD Guidelines (2011), a project would result in a significant construction TAC or PM_{2.5} impact if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) Hazard Index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual average $\text{PM}_{2.5}$.

Figure 4.3-1 below shows the construction area modeled and the locations of nearby sensitive receptors. Residential receptors are designated in green and the maximum off-site exposure locations for residents is circled in green. At this location, the maximum residential cancer risk would be 87.2 per one million cases for infant exposure and 1.6 per one million cases for adult exposure. The maximum residential excess cancer risk at the maximally exposed individual (MEI) would be located on the second floor of the receptor. The maximum residential excess cancer risk would exceed the BAAQMD significance threshold of 10 per one million cases and would result in a significant impact.



Figure 4.3-1: Project Site and Sensitive Receptors Locations

The maximum-modeled annual $\text{PM}_{2.5}$ concentration, which is based on combined exhaust and fugitive dust emissions, was $0.3 \mu\text{g}/\text{m}^3$, occurring at the same location where the maximum cancer risk would occur. This annual $\text{PM}_{2.5}$ concentration would not exceed the BAAQMD significant threshold of $0.3 \mu\text{g}/\text{m}^3$.

The maximum-modeled annual residential DPM concentration (i.e., from construction exhaust) was $0.06 \mu\text{g}/\text{m}^3$, which is lower than the BAAQMD significant threshold of $1.0 \mu\text{g}/\text{m}^3$. The maximum computed Hazard Index (HI) based on this DPM concentration is 0.06, which is lower than the BAAQMD significance criterion of a HI greater than 1.0.

Impact AIR-1: Construction of the proposed project would result in a temporary community risk impact. **(Significant Impact)**

Mitigation and Avoidance Measures

Project Specific Mitigation Measures

In addition to the dust control measures previously identified, the project applicant shall be required to implement the following mitigation measures to reduce construction related TAC impacts:

MM AIR-1.1: All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on-site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. The project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement, accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures. The plan shall be submitted prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

Implementation of the dust control measures previously identified would reduce exhaust emissions by five percent and fugitive dust emissions by over 50 percent. With the identified mitigation measure, the maximum cancer risk would be reduced to less than 9.5 per million, which would be below BAAQMD's cancer risk threshold of 10 per million. As a result, implementation of the Standard Permit Conditions and identified mitigation measure would reduce community risk impacts from construction to less than significant. **[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact with Mitigation)]**

4.3.3.4 *Odor Impacts (Checklist Question e)*

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These 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. Operation of the proposed project may include restaurants in the ground floor retail space which could generate odors. Restaurants would not, however, generate sustained, substantive odors that would affect nearby residences. Implementation of the proposed project would not result in long-term or short-term odor impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.5 *Cumulative Air Quality Impacts (Checklist Question c)*

Please refer to *Section 4.18 Mandatory Findings of Significance* for a discussion of cumulative air quality impacts.

4.3.3.6 Project Air Quality Issue Not Covered Under CEQA (Checklist Question d)

On December 17, 2015, the California Supreme Court issued an opinion in CBIA vs. BAAQMD holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

Community Risk Impacts – Toxic Air Contaminants

Local community risk and hazards are associated with TACs and PM_{2.5} because emissions of these pollutants can have significant health impacts at the local level. The City’s General Plan Policy MS-11.1 requires completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. The policy also requires new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project design or be located an adequate distance from sources of TACs to avoid significant risks to health and safety.

BAAQMD recommends that projects be evaluated for community health risks when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in close proximity the roadway. A review of the project area indicates that the project site is located near SR 87 and the UPRR line. The UPRRR line is used for freight service only, which generates TAC and PM_{2.5} emissions from diesel locomotives. There are currently three to four slow moving trains per day. Due to the proximity of the rail line to the proposed project, potential community risks to future residents on-site from diesel locomotive DPM emissions were evaluated. No stationary sources were identified within 1,000 feet of the site.

The location of these mobile sources and the level of community risk associated with them is shown in Table 4.3-6. As summarized below, future residents of the proposed project would not be exposed to TACs or PM_{2.5} levels in excess of BAAQMD standards; therefore, the project is consistent with General Plan Policy MS-11.1, as it relates to mobile sources of TACs.

Table 4.3-6: Mobile Source Community Risk Levels				
Source	Distance from Source	Cancer Risk (per million)	Annual PM_{2.5} Concentration (µg/m³)	Hazard Index
Highway 87	300 feet	1.7	0.19	<0.01
UPRR Line	25 feet	7.8	0.01	<0.01
BAAQMD Threshold – Single Source		>10.0	>0.3	>1.0
Threshold Exceeded?		No	No	No

4.3.4 Conclusion

The project would not result in significant operational regional or local air quality impacts, conflict with applicable air quality plans and standards, or expose sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the identified Standard Permit Conditions and mitigation measure, the project would not result in significant construction-related regional or local air quality impacts. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a tree survey prepared by David J. Powers & Associates, Inc. in May 2017.

4.4.1 Regulatory Framework

Federal and State

Special-Status Species

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, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed “Species of Special Concern”.

Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The Federal Migratory Bird Treaty Act prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code. The code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFW.

Sensitive Habitats

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, protection, or consideration by the US Army Corps of Engineers (USACE), Regional

Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the Federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. U.S. Environmental Protection Agency (EPA) regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Regional and City of San José

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), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (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.

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.

City of San José Tree Ordinance

Ordinance-sized and heritage trees and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade. A tree removal permit is required from the City prior to removal of any trees.

4.4.2 Existing Conditions

4.4.2.1 *Overview of Habitat Found on the Project Site*

The project site is located within a developed, urban area of downtown San José. Vegetation on-site includes weeds and ruderal plants. Habitats in developed areas, such as downtown, are typically low in species diversity and include predominately urban adapted birds and animals. There are no sensitive habitats on-site, such as freshwater marsh or serpentine grasslands.

4.4.2.2 *Special Status Species*

Special-status species are those plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society’s Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as

Species of Special Concern by the CDFW. Additionally, nesting birds are considered special-status species and are protected by the USFWS under the Migratory Bird Treaty Act. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still the potential for nesting birds to be located in trees in the area surrounding the project site.

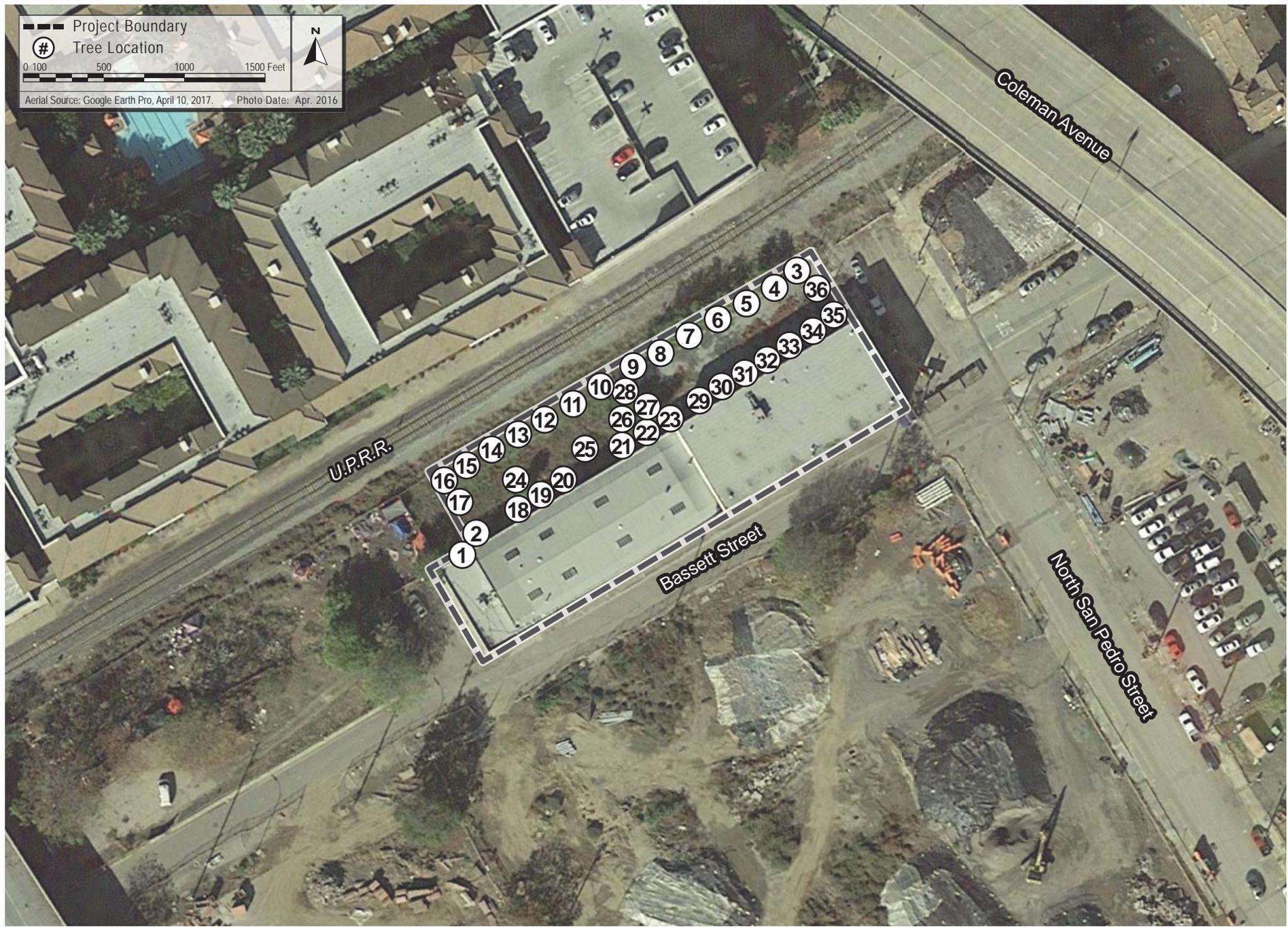
4.4.2.3 *Trees*

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. There are a total of 36 tree of heaven trees located on-site. The trees located on-site are non-native species that vary in size and levels of health. The project proposes to remove all trees on-site. In accordance with City policy, trees that are a minimum of 18 inches in diameter (56 inches in circumference) at 24 inches height from the natural grade, as well as Heritage Trees, are protected from removal without a permit.

The following table lists all trees identified on-site as part of a tree survey prepared by *David J. Powers & Associates, Inc.* in May 2017. The location of the trees is shown on Figure 4.4-1.

Tree No.	Scientific Name	Common Name	Circumference (in inches)	Diameter (in inches)
1	<i>Ailanthus altissima</i>	Tree of Heaven	26	8.3
2	<i>Ailanthus altissima</i>	Tree of Heaven	26	8.3
3	<i>Ailanthus altissima</i>	Tree of Heaven	42	13.4
4	<i>Ailanthus altissima</i>	Tree of Heaven	24	7.6
5	<i>Ailanthus altissima</i>	Tree of Heaven	7.5	2.4
6	<i>Ailanthus altissima</i>	Tree of Heaven	25	8
7	<i>Ailanthus altissima</i>	Tree of Heaven	22	7
8	<i>Ailanthus altissima</i>	Tree of Heaven	11	3.5
9	<i>Ailanthus altissima</i>	Tree of Heaven	25.5	8.1
10	<i>Ailanthus altissima</i>	Tree of Heaven	17.5	5.6
11	<i>Ailanthus altissima</i>	Tree of Heaven	24	7.6
12	<i>Ailanthus altissima</i>	Tree of Heaven	27	8.6
13	<i>Ailanthus altissima</i>	Tree of Heaven	9	2.9
14	<i>Ailanthus altissima</i>	Tree of Heaven	82.5	26.3
15	<i>Ailanthus altissima</i>	Tree of Heaven	9	2.9
16	<i>Ailanthus altissima</i>	Tree of Heaven	21	6.7
17	<i>Ailanthus altissima</i>	Tree of Heaven	11	3.5
18	<i>Ailanthus altissima</i>	Tree of Heaven	35.5	11.3
19	<i>Ailanthus altissima</i>	Tree of Heaven	13	4.1
20	<i>Ailanthus altissima</i>	Tree of Heaven	37	11.8
21	<i>Ailanthus altissima</i>	Tree of Heaven	38	12.1
22	<i>Ailanthus altissima</i>	Tree of Heaven	23.5	7.5
23	<i>Ailanthus altissima</i>	Tree of Heaven	55	17.5
24	<i>Ailanthus altissima</i>	Tree of Heaven	17	5.4

- - - Project Boundary
 # Tree Location
 0 100 500 1000 1500 Feet
 Aerial Source: Google Earth Pro, April 10, 2017. Photo Date: Apr. 2016



TREE LOCATIONS MAP

FIGURE 4.4-1

Table 4.4-1: Tree Survey

Tree No.	Scientific Name	Common Name	Circumference (in inches)	Diameter (in inches)
25	<i>Ailanthus altissima</i>	Tree of Heaven	15.5	4.9
26	<i>Ailanthus altissima</i>	Tree of Heaven	19	6
27	<i>Ailanthus altissima</i>	Tree of Heaven	35	11.1
28	<i>Ailanthus altissima</i>	Tree of Heaven	17.5	5.6
29	<i>Ailanthus altissima</i>	Tree of Heaven	50.5	16.1
30	<i>Ailanthus altissima</i>	Tree of Heaven	41	13
31	<i>Ailanthus altissima</i>	Tree of Heaven	41	13
32	<i>Ailanthus altissima</i>	Tree of Heaven	38	12.1
33	<i>Ailanthus altissima</i>	Tree of Heaven	5	1.6
34	<i>Ailanthus altissima</i>	Tree of Heaven	10.5	3.3
35	<i>Ailanthus altissima</i>	Tree of Heaven	32.5	10.3
36	<i>Ailanthus altissima</i>	Tree of Heaven	40	12.7

Note: Ordinance-sized trees are 56+ inches in circumference (18+ inches in diameter).

4.4.2.4 *Applicable Biological Regulations and Policies*

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

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance 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.

4.4.3

Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5, 9
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant biological impacts, as described below.

4.4.3.1 Biological Resources Impacts (Checklist Questions a – d)

Vegetation, Habitats, and Wildlife

The majority of downtown San José is developed with buildings, pavement, and landscaping. According to the Downtown Strategy 2000 FEIR, the remaining natural habitats are associated with approximately 9,000 linear feet of the Guadalupe River and 3,750 linear feet of the Los Gatos Creek that pass through the City. The Downtown Strategy 2000 FEIR concluded that biological resources impacts would result primarily from development along the Guadalupe River and Los Gatos Creek corridors and from the loss of ordinance-sized trees. Neither the Brandenburg FEIR nor the Downtown Strategy 2000 FEIR identified any sensitive habitats on-site and the nearest waterway to the project site is Guadalupe River, approximately 0.2 miles west of the project site. As a result, implementation of the project would not result in significant impacts to natural plant communities or special status or endangered species. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Impacts to Nesting Migratory Birds

While the project site is located within an urban environment, the trees located on-site could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under provisions of 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.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation and Avoidance Measures

Project Specific Mitigation Measures

The following mitigation measures shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests:

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If it is not possible to schedule demolition and construction between September 1st and January 31st, pre-construction surveys for nesting birds

shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of 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). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.

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

4.4.3.2 *Trees (Checklist Question e)*

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.

Development of the project would result in the loss of 36 trees, one of which is ordinance sized (Table 4.4-1). Consistent with the General Plan FEIR, trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies, and guidelines, including:

- City of San José Tree Removal Control (Municipal Code Section 13.31.010 to 13.32.100)
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In accordance with City policy, trees removed would be replaced with the ratios identified in Table 4.4-2. One tree would be replaced at a 4:1 ratio and eight trees would be replaced at a 2:1 ratio with a minimum 24-inch box. The remaining 27 trees would be replaced at a 1:1 ratio with a 15-gallon container. The total number of trees

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree loss ratio Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

required to be planted on-site would be 47. The species to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the require tree mitigation, one or more of the following measures would be implemented, 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 a 24-inch box and count as two replacement trees.
- Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes. However, any alternatively proposed site would be pursuant to agreement with the Director of the Department of Planning, Building and Code Enforcement.
- A donation may be made to Our City Forest or similar organization for in-lieu off-site tree planting in the community. Such donations would be equal to the cost of the required replacement trees, including associated installation costs for off-site tree planting in the local community. A receipt for any such donation shall be provided to the City of San José Planning Project Manager prior to issuance of a grading permit.

The proposed project would be required to meet the requirements as noted above. The General Plan FEIR concluded that compliance with local laws, policies, or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.4.3.3 Consistency with the Habitat Conservation Plan (Checklist Question f)

Since the approval of the Brandenburg FEIR, Downtown Strategy FEIR, and General Plan FEIR, the City adopted the SCVHP and the project site is within the Habitat Plan area. Private development in the Habitat Plan area is subject to the requirements of the Habitat Plan 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*;⁹
- In Figure 2-5 of the Habitat Plan, 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 two 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 owls.

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) prior to issuance of any grading permits. The project applicant shall submit a SCVHP Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.

[New Less Than Significant Impact (Less Than Significant Impact)]

4.4.4 Conclusion

Consistent with the Brandenburg FEIR, Downtown Strategy FEIR, General Plan FEIR, and applicable City policies, the project would implement mitigation measures to ensure that nesting birds would be protected during construction activities. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

Implementation of the project would not have a substantial adverse impact on any special status plant or animal species or wetlands and would not have conflict with adopted conservation plans, local policies, and local ordinances. **[Same Impact as Approved Project (Less Than Significant Impact)]**

⁹ 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).

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *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 practiced hunting, fishing and focusing on the collection of seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay Area. 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 in 1777.

Based on the Brandenburg FEIR, the project area has a moderate to high sensitivity for prehistoric archaeological deposits. Most prehistoric sites have been found along or very near fresh water sources such as creeks and springs. The nearest waterway to the project site is Guadalupe River, located approximately 0.2 miles west of the project site.

4.5.1.2 *Historic Subsurface Resources*

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during the time which 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 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 0.4 miles north of the second pueblo.

Post-Mission Period to Mid-20th Century

In 1848, a survey of the City was completed but did not include the area west of Market Street and north of Julian Street. Based on the Brandenburg FEIR, the project area was used for agricultural purposes until the San Francisco and San José rail line opened in 1864. After the rail line opened in 1864, new businesses started to develop around West Bassett and North Market Street. The 1884 Sanborn Map of the project area shows several businesses along North San Pedro Street between

Bassett Street and West Julian Street including livery stables, the Albert Lake Box Company, the Toftle Brothers Box and Nail House, and several fruit packing, drayage, and storage facilities.

The project site is currently developed with two commercial/warehouse buildings, built circa 1970. Given the site's proximity to the Second Pueblo, the Brandenburg FEIR concluded that the project area has a moderate to high sensitivity for prehistoric and historical archaeological deposits.

4.5.1.3 *Existing Structures on the Project Site*

According to the Brandenburg FEIR, the existing buildings on-site were built circa 1970. The buildings are not of an appropriate age to be considered as a historic resource and are not included on the City's Historic Resources Inventory.

4.5.1.4 *Applicable Cultural Resources Regulations and Policies*

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 building.¹⁰ 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.

¹⁰ For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

4.5.2

Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
e) 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:						
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); or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-5
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 this criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-5

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory.

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in a less than significant cultural resources impacts, as described below.

4.5.2.1 *Impacts to Historic Structures (Checklist Question a)*

The project site is currently developed with two commercial/warehouse buildings, built circa 1970. The site and adjacent properties are not currently listed in the City's Historic Resources Inventory. In addition, the Brandenburg FEIR concluded that the existing buildings would not be eligible for listing on the National Register and the California Register. The nearest historic resource is Pellier Park, located approximately 0.2 miles south of the project site. As a result, development of the project would have a less than significant impact on historic structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5.2.2 *Impacts to Subsurface Cultural Resources (Checklist Questions b – e)*

Prehistoric and Historic Resources

The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface prehistoric and historic resources.

Policy ER-10.1 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 approximately 0.2 miles west 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 place 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. The project site would be excavated to a depth of approximately 41 feet below grade to construct the parking structure.

While the project site is located within an area considered highly sensitive for prehistoric and historic resources, subsurface testing of nearby sites consistent with City policy and in accordance with Mitigation Measure CUL-3b of the Downtown Strategy FEIR failed to yield any evidence of prehistoric archaeological deposits. Nevertheless, the Brandenburg FEIR and the Downtown Strategy FEIR concluded that construction activities on the project site could result in a significant impact to as yet unrecorded subsurface prehistoric artifacts.

Impact CUL-1: Subsurface cultural resources could be uncovered and disturbed during demolition/construction of the proposed project, resulting in a significant impact. **(Significant Impact)**

Mitigation and Avoidance Measures

The Downtown Strategy FEIR identified the following measures for mitigation of impacts on the project site (Table V I-2).

- **APPROPRIATE PRIOR REVIEW.** Conduct appropriate levels of review prior to undertaking project elements involving ground-disturbing activities that may impact buried archaeological deposits that meet the definition of a historical or archaeological resource (CEQA Guidelines §15064.5[a] and §21083.2[g]). At a minimum, this effort should include a records search at the NWIC and an archaeological assessment by a qualified archaeologist prior to project implementation.
- **DETERMINE RESOURCE REGULATORY STATUS.** When project elements that will directly impact an identified archaeological site are proposed, consult with qualified cultural resource professionals prior to project implementation to determine if the site meets the definition of a historical or archaeological resource under CEQA.
- **DETERMINE FEASIBLE ALTERNATIVES.** If an archaeological site meets the CEQA definition of a historical or archaeological resource and will be impacted by the proposed project, make reasonable efforts to feasibly avoid project impacts (e.g., project redesign, conservation easements, or site capping).
- **AUTHORIZE DATA RECOVERY.** Authorize data recovery by qualified professionals if the avoidance or preservation of an archaeological historical resource or archaeological resource is not feasible. Ensure that a copy of the documentation be submitted to the NWIC.
- **STOP WORK AND EVALUATE UNANTICIPATED FINDS.** Redirect ground disturbance within a 50-foot radius if buried archaeological deposits are encountered by project activities. Contact a qualified archaeologist to (1) evaluate the finds to determine if they meet the CEQA definition of a historical or archaeological resource; and (2) provide project-specific recommendations regarding the disposition of the finds. Ensure that the results of any archaeological investigation are submitted to the NWIC.
- **STOP WORK AND FOLLOW STATUTORY PROCEDURES.** Redirect ground-disturbance within a 50-foot radius if human remains are encountered by project activities, and implement the steps outlined in CEQA Guidelines §15064.5(e).

The following mitigation measures, consistent with the Brandenburg FEIR and Downtown Strategy FEIR, will also be implemented during construction to avoid impacts to as yet unrecorded subsurface archaeological resources.

MM CUL-1.1:

A qualified archaeologist, meeting the Professional Qualifications Standards of the Secretary of the Interior's Standards and Guidelines, shall monitor all ground disturbing activity within the project area. This monitoring shall continue until, in the archaeologist's judgment, a depth has been reached at which cultural resources are not likely to be encountered by project-related activities. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. Project personnel shall not collect or move any cultural material. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it shall be avoided by project activities. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.

If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.

Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to issuance of occupancy permits. All documentation and recordation shall be submitted to the Northwest Information Center (NWIC).

MM CUL-1.2:

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. 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 project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the qualified archaeologist, who shall then notify the Santa Clara County

Coroner. The Coroner shall make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Within implementation of these mitigation measures, construction of the proposed project would have a less than significant impact on as yet unrecorded subsurface archaeological resources. [**Same Impact as Approved Project (Less Than Significant Impact With Mitigation)**]

Paleontological Resources

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

Based on the underlying geologic formation of the project site, the General Plan FEIR found the project site to have a high sensitivity (at depth) for paleontological resources. Geologic units of Holocene age are generally not considered sensitive for paleontological resources; however, mammoth remains were found along the Guadalupe River in San José in 2005.

The project site would be excavated to a depth of approximately 41 feet below ground surface (bgs) for the underground parking structure. At this depth, the project has the potential to encounter and disturb paleontological resources. The project would be required to comply with all applicable City regulatory programs and policies 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 project proponent 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 vertebra fossils are discovered during construction, all work on-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 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 shall be responsible for ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

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)]**

4.5.3 **Conclusion**

With implementation of the above mitigation measures, as identified in the Brandenburg FEIR and the Downtown Strategy FEIR, the proposed project would not result in significant impacts to subsurface archaeological resources. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

With implementation of the above mitigation measures, as identified in the Brandenburg FEIR and the Downtown Strategy FEIR, the proposed project would not result in significant impacts to tribal cultural objects. **[New Less Than Impact With Mitigation (Less Than Significant Impact With Mitigation)]**

The proposed project would have a less than significant impact on all land based tribal cultural resources. **[New Less Than Significant Impact (Less Than Significant Impact)]**

The proposed project would have a less than significant impact on historic structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the identified Standard Permit Conditions and compliance with applicable City policies and regulatory programs, the project would have a less than significant impact on paleontological resources. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a Geotechnical Investigation Report prepared by *TRC Companies, Inc.* in January 2016. A copy of this report is attached in Appendix B.

4.6.1 Environmental Setting

4.6.1.1 *Regional Geology*

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet bgs. 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.

4.6.1.2 *On-Site Geologic Conditions*

Topography and Soils

The soils on-site are of Holocene age and consist of medium to dark gray, dense, sandy to silty clay floodplain deposits. There are no unique geological features on or adjacent to the project site and the topography of the project area is relatively flat. According to the geotechnical report, soils on-site have a low to moderate expansion potential.

Groundwater

Groundwater levels on-site were encountered between 15 to 20 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Seismicity and Seismic-Related Hazards

The project site is located within the San Francisco Bay Area, the most seismically active region in the United States. 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 during a major earthquake on one of the nearby faults. Based on a 2014 forecast completed by the U.S. Geological Survey, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044.¹¹

Fault	Distance from Site
Hayward	10 miles north
Calaveras	9 miles east
San Andreas	11 west

Although the project site is located within a seismically active region, it is not located within a designated Alquist-Priolo Earthquake Zone,

¹¹ U.S. Geological Survey. *UCERF3: A New Earthquake Forecast for California's Complex Fault System*. Fact Sheet 2015-3009. March 2015. Accessed April 12, 2017. <<https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf>>.

Santa Clara County Fault Hazard Zone, or City of San José Potential Hazard Zone.¹² No active faults have been mapped on the project site, therefore, the risk of fault rupture at the site is low. Active faults near the project site are shown in Table 4.6-1.

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.¹³

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 a steep bank of a stream channel. The nearest waterway is Guadalupe River, located approximately 0.2 miles west of the project site. At this distance, the potential for lateral spreading on-site is low.

Landslides

The site is not located within a Santa Clara County Landslide Hazard Zone.¹⁴ The project area is flat and, therefore, the probability of landslides occurring at the site during a seismic event is low.

4.6.1.3 Applicable Geological Regulations and Policies

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

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

¹² Santa Clara County. *Santa Clara County Geologic Hazard Zones, Map 20*. Accessed April 12, 2017. <https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf>.

¹³ Ibid.

¹⁴ Ibid.

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.

4.6.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,10
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant geology and soils impacts, as described below.

4.6.2.2 *Geological and Soil Impacts (Checklist Question a, c, and d)*

Faults in the area are considered active and have a long history of seismic activity. Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 6.7 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake. The site and surrounding areas are, however, relatively flat and the probability of landslides occurring at the site during a seismic event is low.

The project would be required, as a condition of project approval, to be built and maintained in accordance with the design-specific geotechnical report and the most recent California Building Code requirements and all applicable General Plan policies.

The project site is located within an area of moderate to very high expansion potential and a low potential for lateral spreading during large seismic events. Due to the unconsolidated characteristics of the soil on-site, the Brandenburg FEIR concluded that the differential settlement during large seismic events would be two inches or less for the proposed development. The Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR concluded that adherence to the California

Building Code and consistency with the applicable General Plan policies would reduce seismic related impacts to a less than significant level. Therefore, development of the project site would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Groundwater

As mentioned in *Section 4.6.1.2*, groundwater levels on-site were encountered between 15 and 20 feet bgs. The project site would be excavated to a depth of approximately 41 feet bgs for the below-grade parking structure. Because excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction. Hydrostatic pressure generated by ground shaking can result in the formation of sand boils or mud spouts, seepage of water through ground cracks, and destabilization of the underground parking structure. It may be necessary to dewater the sand layers near the bottom of the proposed excavation to relieve the hydrostatic pressure on the overlying clay layer. Please refer to *Section 4.8 Hazards and Hazardous Materials* for more information.

The proposed project would be built and maintained in accordance with a site-specific geotechnical report (as required by the Downtown Strategy FEIR) and applicable regulations including the most recent California Building Code requirements which contains the regulations that govern the construction of structures in California. The site-specific geotechnical report shall evaluate the consolidation properties of the underlying sediments to determine the potential for settlements associated with dewatering and other potential earth movements. If it is determined that unacceptable settlements may occur with either active or passive dewatering systems, then alternative groundwater control systems that do not require continuous groundwater removal (e.g., slurry wall) shall be required. The design-level geotechnical investigation would also identify necessary measures associated with shoring of utility trenches, waterproofing, and designing for hydrostatic pressure (uplift).

For these reasons, the project would not result in new or more significant impact on groundwater than described in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

4.6.2.3 *Erosion Impacts (Checklist Question b)*

Ground disturbance would be required for removal of the existing pavement, grading, trenching, and construction of the proposed 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 National Pollutant Discharge Elimination Systems (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 General Plan 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.

Because the proposed project would comply with the applicable City regulatory programs related to erosion, implementation of the proposed project would have a less than significant erosion impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6.2.4 *Other Impacts (Checklist Question e)*

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)]**

4.6.2.5 *Project Geology Issues Not Covered Under CEQA (Checklist Questions a – d)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. New development in the City shall not be endangered by, nor contribute to, the hazardous conditions on-site or on adjoining properties.

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.

Soils on-site have a low to moderate expansion potential. The project site is located within a potential liquefaction zone and would experience very strong ground shaking during an earthquake. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent California Building Code, which contains the regulations that govern the construction of structures in California. The General Plan FEIR, Downtown Strategy FEIR, and the Brandenburg FEIR concluded that adherence to the most recent California Building Code 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 the site.

4.6.3 Conclusion

Development on the project site would have a less than significant geologic impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Sewers are available to dispose wastewater from the project site and, as a result, the project site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (No Impact)]**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 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 associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (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 and manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.1 *Regulatory Framework*

Federal

Clean Air Act

The U.S. EPA is the federal agency responsible for implementing the Clean Air Act (CAA). The US Supreme Court in its 2007 decision in *Massachusetts et al. v. Environmental Protection Agency et al.*, ruled that carbon dioxide (CO₂) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of greenhouse gases (GHGs). Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State

California Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill 32 (AB 32), CARB has 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*, that identifies how emission reductions would be achieved from significant GHG sources via regulations, market mechanisms and other actions.

On September 8, 2016, Governor Brown signed Senate Bill (SB) 32 into law, amending the California Global Warming Solution Act. SB 32 requires the California Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB has initiated the public process to update the state’s *Climate Change Scoping Plan*. The updated plan would provide a framework for achieving the 2030 target and is anticipated to be completed and adopted by CARB in 2017.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG

reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 when compared to emissions in 2005. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹⁵

Consistent with the requirements of SB 375, MTC partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission (BCDC) to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as *Plan Bay Area*.

MTC and ABAG adopted *Plan Bay Area* in July 2013 and CARB accepted the technical evaluation of the SCS in April 2014. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions.

MTC and ABAG are currently updating *Plan Bay Area*. *Plan Bay Area 2040*, released in early 2017, is a limited and focused update that builds upon the growth pattern and strategies developed in the original *Plan Bay Area* but with updated planning assumptions that incorporate key economic, demographic and financial trends from the last four years. MTC and ABAG plan to revise the draft *Plan Bay Area 2040* and prepare a Final Environmental Impact Report with consideration of adoption in July 2017.

Clean Car Standards

CARB has adopted amendments to the "Pavley" regulations that are designed to reduce GHG emissions in new passenger vehicles. It is expected that the Pavley regulations would reduce GHG emissions from new California passenger vehicles by approximately 30 percent in 2016, all while improving fuel efficiency and reducing motorists' costs.¹⁶

Regional

Bay Area Air Quality Management District

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. Several key activities of BAAQMD related to GHG emissions are described below.

- *Regional Clean Air Plans:* BAAQMD and other agencies prepare clean air plans as required under the state and federal Clean Air Acts. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by

¹⁵ The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

¹⁶ CARB. "Clean Car Standards - Pavley, Assembly Bill 1493". Accessed June 22, 2017.

<<http://www.arb.ca.gov/cc/ccms/ccms.htm>>.

2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane and other “super-GHGs” that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

- *BAAQMD CEQA 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. As discussed in the CEQA Guidelines, 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. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing greenhouse gas emissions, mitigation measures, and background information.

Bay Area 2017 Clean Air Plan

BAAQMD and other agencies prepare clean air plans as required under the State and Federal Clean Air Acts. The 2017 CAP, entitled *Spare the Air/Cool the Climate*, is a blueprint for BAAQMD’s efforts to reduce air pollution and protect public health and the global climate. Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD’s long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

BAAQMD CEQA Guidelines

BAAQMD identifies sources of information on potential thresholds of significance and mitigation strategies for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHG emissions. In jurisdictions where a qualified GHG Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the GHG Reduction Strategy would reduce a project’s contribution to cumulative GHG emission impacts to a less than significant level. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHG emissions.

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)

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 General Plan FEIR as supplemented. 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/SP 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 2035.¹⁷

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 FEIR 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 work places. Future policy and regulatory

¹⁷ As described in General Plan 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.

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 FEIR 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.

4.7.1.2 *Applicable Greenhouse Gas Regulations and Policies*

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

Policy MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

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 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.

4.7.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Neither the Brandenburg FEIR nor the Downtown Strategy FEIR addressed GHG impacts. Similar to the site development evaluated in the General Plan FEIR and Supplemental FEIR, the proposed project would result in a less than significant GHG emissions impacts, as described below.

4.7.2.1 Greenhouse Gas Emissions Impact (Checklist Question a and b)

Construction

The proposed development would result in temporary increases 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. 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 and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32. [**Same Impact as Approved Project (Less Than Significant Impact)**]

Operation

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. The proposed project is evaluated for consistency with the City’s GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City’s discretion. Projects that are consistent with the GHG Reduction Strategy would have a less than significant

impact related to GHG emissions. The project's conformance with the GHG Reduction Strategy is further described below.

Consistency with the San José Greenhouse Gas Reduction Strategy

The proposed project was evaluated for consistency with the City's GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction.

The primary test for consistency with the GHG Reduction Strategy is conformance to the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for all 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. If approved, the proposed project would be constructed and operational prior to the year 2020.

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
 - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7
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 proposed project is consistent with the General Plan land use and zoning designation for the site. The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Building Code requirements. The project would be designed to achieve minimum LEED certification in compliance with Policy 6-32. The project proposes high performance glazing to reduce energy required for cooling and the use of daylighting which would reduce electric power use (refer to *Section 3.3* for the list of green building design features). In addition, the project proposes ground level bicycle parking consistent with the *Chapter 20.90, Parking and Loading* of the City's Municipal Code. Given the project's consistency with the General Plan land use designation, compliance with Policy 6-32, and the provision of adequate bicycle parking, the project would be consistent with the mandatory criteria 1, 2, and 3.

Criteria 4 through 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy intensive use, the project is mainly a residential project and not a large employer, and the project does not propose vehicle-serving uses.

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))]**

4.7.3 Conclusion

Development of the proposed project would be consistent with the GHG Reduction Strategy and have a less than significant operational and construction related GHG emissions impact, consistent with the findings of the General Plan FEIR and Supplemental FEIR. **[(Same Impact as Approved Project (Less Than Significant Impact))]**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared for the project by *Langan Engineering and Environmental Services, Inc.* in May 2017. A copy of the report is attached in Appendix C of this document.

4.8.1 Overview

Hazardous materials are distributed throughout the City of San José within industrial, light industrial and commercial areas. Hazardous materials encompass a wide range of substances including petroleum products, pesticides, herbicides, metals, asbestos, and chemical compounds used in manufacturing and other uses. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. As a result, numerous laws and regulations were developed to regulate the management of hazardous materials and mitigate potential impacts.

Hazardous waste generators and hazardous materials users in the City are required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with the human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

4.8.2 Setting

The project site is currently developed with two commercial/warehouse buildings. According to the Phase I ESA, groundwater levels on-site are estimated to be approximately 15 to 20 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

4.8.2.1 *Historic Uses of the Project Site and Surrounding Land Uses*

A land use history of the site was compiled based on Sanborn Fire Insurance Maps, historical topography maps, aerial photographs, and City directories.

In 1884, the site was occupied by a manufacturing company. Freight warehouses bordered the northwest boundary of the project site and a fruit packing company was located to the east. By 1891, the site was occupied by a fruit packing company. By 1915, the eastern half of the site was occupied by a meat storage and packing company. Development surrounding the site included warehouses, pump companies, and pine box and lumber companies. The site was vacant between 1939 and 1948. By 1950, the site was occupied by a furniture warehouse. By 1969, the western portion of the site was occupied by a television and appliance warehouse and the eastern portion of the site was occupied as a furniture warehouse.

4.8.2.2 *On-site Sources of Contamination*

Based on a database records search, the project site is not listed in any of the regulatory databases.

Asbestos Containing Materials

The existing buildings on-site was built circa 1970.¹⁸ Given the buildings were constructed in 1970, asbestos containing materials (ACMs) are likely present on-site. Friable asbestos is any 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. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of nonfriable ACMs are asphalt roofing shingles, and vinyl asbestos floor tiles. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight. Use of friable asbestos products was banned in 1978.

Lead-Based Paint

Lead-based paint may also be present on-site. Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead in interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm). In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead.

4.8.2.3 *Off-Site Sources of Contamination*

The Phase I Environmental Site Assessment identified one site within a quarter-mile of the project site with a recorded hazardous materials incident. The property located at 355 North San Pedro Street, approximately 165 feet east-southeast (cross gradient), contained two gasoline underground storage tanks (UST) and an oil water separator. Low levels of total petroleum hydrocarbons as diesel (TPH-d) and gasoline (TPH-g) were detected. In addition, groundwater samples were collected which detected minor concentrations of TPH-g and TPH-d. As a result, a closure letter was issued by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in March 2002.

Sites located more than a quarter-mile from the project site are not considered a potential contamination risk because they had no violations, were closed by the regulatory agency, or were hydrologically cross or down gradient.

¹⁸ City of San Jose. Brandenburg Mixed Use Project/North San Pedro Housing Sites Environmental Impact Report. August 2003.

4.8.2.4 *Applicable Hazards and Hazardous Materials Regulations and Policies*

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-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 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 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.

4.8.3 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,11
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,11
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,11
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,11

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant hazards and hazardous materials impacts, as described below.

4.8.3.1 *Soil and Groundwater Contamination Impacts (Checklist Questions a – d)*

As mentioned previously, the site has not been listed in any regulatory databases. On-site and off-site sources of soil and groundwater contamination have not been reported. An off-site property located at 355 North San Pedro Street contained two gasoline USTs and an oil water separator. The gasoline USTs were excavated approximately 28 feet bgs and soil samples were collected. The results detected low levels of petroleum hydrocarbons as diesel and gasoline. In addition, groundwater samples collected within the UST detected minor concentrations of petroleum hydrocarbons as diesel and gasoline. Because low levels of petroleum hydrocarbons as diesel and gasoline were found, a closure letter was issued by the San Francisco RWQCB as of March 2002.

Development of the project would require excavation to a depth of approximately 41 feet to construct the underground parking structure. While excavation is required and groundwater would likely be encountered, there is no documented evidence of soil or groundwater contamination that could

impact construction workers or adjacent land uses during construction or operation of the project. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

Due to the age of the existing structure on-site, building materials may contain asbestos. When the building is demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos.

Due to the age of the existing structure on-site, lead-based paint may be present. 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 would be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately.

No information regarding the use of lead-based paint was identified on-site; however, if used, lead concentrations may remain in on-site soil. The project proposes to excavate to a depth of approximately 41 feet for the underground parking structure. 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 to reduce impacts due to the presence of ACMs and/or lead-based paint:

Standard Permit Conditions

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

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications

Conformance with the identified Standard Permit Conditions would result in a less than significant impact from ACMs and Lead. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.3.2 *Dewatering During Construction (Checklist Question d)*

Groundwater has been found on-site at a depth of approximately 12 to 20 feet bgs. The site would be excavated to a depth of approximately 41 feet for the four-story below-grade parking structure. The project would likely encounter groundwater during excavation activities on-site which would need to be removed from excavated areas and disposed.

Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB and the City’s Environmental Services Division. Dewatering during construction is not anticipated to create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.3.3 *Other Hazard Impacts (Checklist Questions c, e – h)*

Schools

The project site is not located within one-quarter mile of any proposed or existing school. Implementation of the project would not result in a hazardous materials impact to any nearby school. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Airport Operations

Federal Aviation Administration (FAA) Regulations and review requirements for protecting the airspace near airports, particularly by restricting the height of potential structures and minimizing other hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. Under the FAR Part 77, the FAA must be notified of proposed structures within an extended zone defined by a set of imaginary surfaces or slopes that radiate out for several miles from an airport’s runways, or which would stand at least 200 feet or more in height above ground. For the project site, any proposed structure of a height greater than approximately 50 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

At a proposed height of 195 feet above ground, the project is required to be reviewed by the FAA. General Plan Policy TR-14.2 requires FAA issuance of “no hazard” determinations prior to project approval, with any conditions set forth in an FAA no-hazard determination to be incorporated into the City’s project approval. Applications of this General Plan policy ensures the project would not be a hazard to aircraft operations.

While the project site is not located within the Comprehensive Land Use Plan (CLUP)-defined safety zone, the project is, however, located within the Norman Y. Mineta San José International Airport AIA.¹⁹ The project would be required to follow all applicable General Plan policies, including Policy TR-14.2 and Policy TR-14.3, regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport. As part of the permit, the project would be subject to the following Standard Permit Conditions.

Standard Permit Conditions

- A Determination of No Hazard would be required from the FAA as a condition of project approval, prior to issuance of building permits.
- Pursuant to General Plan policy, the applicant would be required to grant an Avigation Easement over the project site to the City to provide for acceptance of aircraft overflight impacts, including elevation restrictions (refer to *Section 4.10.2.2*).

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

Emergency Response Plans

The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (No Impact)]**

Wildland Fires

The project site is located within an urbanized area and it is not adjacent to any wildland areas that would be susceptible to wildland fires. Implementation of the proposed project would not expose any people or structures to risk from wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.3.4 Existing Hazardous Materials Conditions Affecting the Project Site (Checklist Questions a, b, d)

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

¹⁹ Walter B. Windus, PE. "Aviation Consultant. Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport". May 2011. Accessed April 28, 2017.
<https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_20110525_SJC_CLUP.pdf>.

Envision San José 2040 General Plan policies have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan Policy EC-7.2 requires the identification of 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 are required to be designed to avoid adverse human health or environmental risk, in conformance with regional, State and Federal laws, regulations, guidelines and standards.

There is no documented evidence of on-site or off-site soil or groundwater contamination that could affect the health of future site occupants. 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.

4.8.4 Conclusion

With implementation of the Standard Permit Conditions, the proposed project would result in a less than significant hazards and hazardous materials impact, consistent with the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Regulatory Setting

State Water Quality Control Board Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations, under Section 402 of the Clean Water Act, include the NPDES permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the San José area is the San Francisco RWQCB.

In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment (CZARA) of 1990. The Nonpoint Source Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the applicant to submit a Notice of Intent (NOI) to the SWRCB and to develop a Storm Water Pollution Prevention Plan (SWPPP) prior to commencement of construction. The SWPPP addresses appropriate measures for reducing construction and post-construction impacts.

All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15th to April 15th), the project shall submit to the Director of Public Works an Erosion Control Plan detailing BMPs that shall prevent the discharge of stormwater pollutants.

Municipal Regional Stormwater NPDES Permit/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). The permit requires all members, including the City of San José, to implement programs that reduce urban runoff pollution and promote public awareness. Under provisions of the NPDES MRP, projects that add and/or replace more than 10,000 square feet of impervious surface are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP require post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the

project qualifies for Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site depending on project characteristics. This would also require a narrative discussion as to why the implementation of 100 percent LID measures is not feasible per the MRP. The project qualifies as a Special Project.

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. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCM) to the maximum extent practicable. 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 stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new 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 beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

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.²⁰

4.9.2 Environmental Setting

4.9.2.1 *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.²¹ 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. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.

²⁰ Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed on April 18, 2017.

http://www.scvurppp-w2k.com/HMP_app_maps/San_Jose_HMP_Map.pdf.

²¹ Federal Emergency Management Agency. *Flood Insurance Rate Map. Map Number 06085C0234H*. May 18, 2009. Accessed April 17, 2017. <https://msc.fema.gov/portal>.

4.9.2.2 *Dam Failure*

Based on the Santa Clara Valley Water District dam failure inundation hazard maps, the project site is within the Lexington Dam and Anderson Dam failure inundation hazard zone.^{22, 23}

4.9.2.3 *Seiches, Tsunamis, and Mudflows*

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami. The project area is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

4.9.2.4 *Storm Drainage System*

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drains into Guadalupe River. Guadalupe River flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

There is an existing storm drain line along Bassett Street that connects to a storm drain line on North San Pedro Street.

4.9.2.5 *Water Quality*

As mentioned above, stormwater from the project site drains into the Guadalupe River. The water quality of Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA), the Guadalupe River is currently listed on the 303(d)²⁴ list for mercury and trash.²⁵

4.9.2.6 *Groundwater*

Groundwater is estimated to occur between 15 to 20 feet bgs. Groundwater levels fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors.

²² Santa Clara Valley Water District. *Lexington Reservoir 2009 Flood Inundation Maps*. 2009. Accessed April 17, 2017. <http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx>.

²³ Santa Clara Valley Water District. *Anderson Dam and Reservoir 2009 Flood Inundation Maps*. 2009. Accessed April 17, 2017. <http://www.valleywater.org/Services/AndersonDamAndReservoir.aspx>.

²⁴ The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.

²⁵ United States Environmental Protection Agency. “*Waterbody Quality Assessment Report*”. Accessed April 18, 2017. https://iaspub.epa.gov/tmdl_waters10/attains_waterbody.control?p_list_id=CAR2054005019980928160437&p_stat e=CA&p_cycle=2012.

4.9.2.7 *Applicable Hydrology and Water Quality Regulations and Policies*

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

Policy ER-8.1: Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

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

Policy 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.

4.9.3

Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,12
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,12
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,12
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant hydrology impacts, as described below.

4.9.3.1 *Water Quality Impacts (Checklist Questions a and f)*

Construction Impacts

Implementation of the proposed project would involve excavation and grading activities at the project site. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is 0.77 acres in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain a NPDES General Permit for Construction Activities.

All development projects in the City are required to comply with the City’s Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15th to April 15th), the project shall submit to the Director of Public Works an Erosion Control Plan detailing BMPs that shall prevent the discharge of stormwater pollutants.

Pursuant to the NDPEs General Permit for Construction and City requirements, the following Standard Permit Conditions have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts:

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and 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 Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project would include the specific measures and actions identified above, the project would have a less than significant construction-related water quality impact. **(Less Than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is 100 percent impervious (approximately 35,726 square feet). Upon completion of the proposed development, impervious surfaces on-site would decrease by approximately seven percent. Construction of the project would result in the creation of 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 RWQCB MRP.

The MRP requires all of the post-construction stormwater runoff to be treated by numerically sized Low Impact Development (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. Stormwater runoff would be treated by media filters and flow-through planters.

The General Plan 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)]**

4.9.3.2 Storm Drainage and Drainage Pattern Impacts (Checklist Questions c – e)

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.9-1 below.

Table 4.9-1: Approximate Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sf)	%	Project/Post Construction (sf)	%	Difference (sf)	%
Impervious						
Roof Area(s)	17,911	50	18,478	52	+567	+2
Parking	15,853	45	0	0	-15,853	-45
Streets (public)	1,962	5	3,714	10	+1,752	+5
Patios, Paths, etc.	0	0	11,171	31	+11,171	+31
<i>Subtotal</i>	35,726	100	33,363	93	-2,363	-7
Pervious						
Dirt, Pavement, and Landscaping	0	0	2,363	7	+2,363	+7
Total	35,726	100	35,726	100		

Under existing conditions, the entire site is covered with impervious surfaces (approximately 35,726 square feet). Under project conditions, the impervious surfaces would decrease by approximately seven percent, which would result in a slight decrease in stormwater runoff. Although the project would slightly increase pervious surfaces on-site due to landscaping, implementation of 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 siltation or exceed the capacity of the existing stormwater system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.3.3 Groundwater (Checklist Question b)

With implementation of the proposed project, the quantity of impervious surfaces on the project site would decrease by approximately seven percent. Development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of the SCVWD’s percolation facilities for groundwater recharge nor would it otherwise affect the operation of the percolation or recharge facilities. In addition, the project site is not a designated recharge area and this condition would not change once development is complete. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in overall groundwater supply. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction of the project would include four levels of below-grade parking at a total depth of approximately 41 feet. Groundwater on-site was encountered at approximately 15 to 20 bgs. Based on this data, the construction and operation of the proposed development could interfere with the shallow groundwater aquifer (i.e., dewatering and/or blocking the natural flow direction). During

construction, dewatering may be required, but would be temporary and would not have a long-term effect on groundwater supply. Although the underground parking structure may result in shallow groundwater having to divert around the structure, it would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers.

In accordance with City policies, the following Standard Permit Conditions shall be implemented as part of the project:

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 shall withstand hydrostatic groundwater pressure intrusions and shall not need to pump groundwater on a post-construction basis. If this is infeasible then the project can implement groundwater pumping.
- 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 that 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.

[Same Impact as Approved Project (Less Than Significant Impact)]

4.9.3.4 *Seiches, Tsunamis, and Mudflows (Checklist Question j)*

Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties.

[Same Impact as Approved Project (Less Than Significant Impact)]

4.9.3.5 *Existing Flooding Conditions Affecting the Project (Checklist Questions g – i)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

Based on the FEMA flood insurance rate maps, the project site is outside the 100-year floodplain. As a result, the proposed project would not redirect flows or expose people or structures to significant flood hazards.

As mentioned in *Section 4.9.2.2*, the project site is located within the Lexington and Anderson dam failure inundation zone. The California Division of Safety 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 General Plan FEIR concluded that with the 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 occupants of the site would not be exposed to flooding hazards.

4.9.4 **Conclusion**

Implementation of the identified Standard Permit Conditions and compliance with all applicable City policies and programs would result in a less than significant water quality and hydrology impact, consistent with the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10 LAND USE AND PLANNING

4.10.1 Environmental Setting

4.10.1.1 *Existing Land Uses*

The 0.77-acre project site is comprised of three parcels located on Bassett Street between Terraine Street and North San Pedro Street in downtown San José. The site is currently developed with two unoccupied commercial/warehouse buildings and a surface parking lot. A chain-link fence borders the northern boundary of the site separating the site from the adjacent UPRR rail line. The site can be accessed from Bassett Street and North San Pedro Street. Figure 2.4-3 shows an aerial photograph of the project site.

4.10.1.2 *Surrounding Land Uses*

The project area is developed with one apartment complex and a mix of undeveloped lots and properties currently under construction. The project site is bounded by North San Pedro Street to the east, Bassett Street to the south, Terraine Street to the west, and the UPRR rail line to the north. As mentioned in *Section 4.1.1.2*, the roadways within the vicinity of the project site are currently being modified, reconfigured, and repaved.

Located immediately north of the UPRR rail line is a four-story multi-family apartment complex. The apartment complex is a cluster of five buildings and two parking structures with a common open space area located at the center. The parcel located south of the project site is currently being redeveloped and would result in the construction of 381 residential units in mid-rise buildings. The parcel located southwest of the project site is currently undeveloped and is being utilized for construction staging. This site has been approved for development of a high-rise building with 313 residential units and ground floor retail, similar to the proposed project.

4.10.1.3 *Existing Land Use Designation and Zoning*

The project site is designated *Downtown* under the City's General Plan and has a zoning designation of *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, density of up to a FAR of 30.0, and residential densities up to 800 dwelling units per acre. Under this designation, residential projects should generally incorporate ground floor commercial uses.

Under the DC – Downtown Commercial 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.

4.10.1.4 *Applicable Land Use Regulations and Policies*

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-4.5: For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

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 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.

4.10.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant land use impacts, as described below.

4.10.2.1 Consistency with the General Plan Land Use Designation and Zoning
(Checklist Question b)

As mentioned above, the project site is designated *Downtown* under the adopted General Plan and is zoned *DC – Downtown Commercial*. The *Downtown* designation allows for building heights of three to 30 stories and an FAR of up to 30.0. As mentioned in *Section 3.2*, an SUP would be required to allow the construction of commercial condominiums on-site.

Implementation of proposed project would result in the redevelopment of an underutilized site with residential and retail space within the downtown area, consistent with development proposed under the Brandenburg FEIR and the existing land use designations. As a result, the project would not conflict with any applicable land use plans, policies or regulations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.2.2 *Land Use Impacts (Checklist Question a and b)*

Established Communities

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a high-density housing project located in the downtown core. Build out of the development approved under Brandenburg FEIR would include approximately 60,000 square feet of commercial space and 1,500 residential units. The proposed residential development would complement the uses proposed under the Brandenburg FEIR. In addition, the Downtown Strategy FEIR concluded implementation of the Downtown Strategy would neither disrupt nor divide an established community. As a result, the project would have a less than significant impact on surrounding land uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Shade and Shadow

The Brandenburg FEIR stated that the project would have a significant shade and shadow impact if it would result in a 10 percent or greater increase in the shadows cast onto any major public open space in the downtown area. Pursuant to the Downtown Strategy FEIR, a project would have a shade and shadow impact if it would result in a 10 percent or greater increase in the shadow cast onto St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, or McEnery Park; or substantially increase shadows at other public open spaces areas (excluding streets and sidewalks). The proposed project is not proximate to the six major downtown open space areas. The nearest open space area is St. James Park and the Guadalupe River Trail, both located approximately 0.2 miles southeast and west of the project site. Because the project site is northwest of St. James Park and east of the Guadalupe River Trail, the project would not shade a public open space. There are residences located approximately 58 feet north of the project site. While the project would increase shading on the adjacent apartment complex, the increased shading would not preclude use of any public open space. As a result, the shadows cast by the proposed project would have a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Compatibility with Airport Operations

The Norman Y. Mineta San José International Airport is located approximately 1.2 miles north of the project site. The project site is located within the Airport Influence Area (AIA) as defined by the Santa Clara County Airport Land Use Commission (ALUC). See *Section 4.8 Hazards and Hazardous Materials* for a discussion of project compliance with FAA regulations and General Plan policies regarding the proposed building height.

Compatibility Plan height regulations and policies, and Section 4.12 of Appendix A (Noise) regarding required project compliance with Envision San José 2040 General Plan and ALUC noise policies. As indicated, (a) FAA issuance of “no hazard” determinations and City incorporation of any associated conditions set forth by the FAA, is required prior to City project approval, and (b) residential and commercial land uses are considered compatible (subject to standard mitigation) within the project’s 60 to 65 dBA CNEL aircraft noise environment.

Pursuant to City and ALUC policy, the applicant would be required to grant an Avigation Easement over the project site as a condition of project approval. The recorded easement would provide for acceptance of aircraft noise and other effects of aircraft flyovers as well as elevation restrictions that allow for the currently proposed maximum building height of 195 feet above ground. In addition, the project’s proposed maximum height would not impact any aircraft emergency one-engine inoperative (OEI) procedure currently used by airlines at the Airport. By requiring the proposed project to comply with General Plan policies and the FAA airspace safety review process and its resulting determinations, the proposed project would have a less than significant impact on airport operations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.2.3 *Other Land Use Impacts (Checklist Question c)*

The project would not conflict with any habitat conservation plan or natural community conservation plan (see *Section 4.4, Biological Resources*). **[Same Impact as Approved Project (No Impact)]**

4.10.3 **Conclusion**

Implementation of the project would not result in new or more significant land use impacts than disclosed in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Environmental Setting

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.

4.11.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would not impact mineral resources, as described below.

4.11.2.1 *Impacts to Mineral Resources (Checklist Questions a and b)*

The proposed project is located in a developed urban area and is not located in an area containing known mineral resources. Implementation of the project would not result in the loss of availability of any known resources. **[Same Impact as Approved Project (No Impact)]**

4.11.3 Conclusion

The project would not result in the loss of availability of known mineral resources, consistent with the findings of the Brandenburg FEIR, the Downtown Strategy FEIR, and General Plan FEIR. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE AND VIBRATION

The following discussion is based in part on a Vibration Assessment prepared by *Illingworth & Rodkin, Inc.* in August 2017. A copy of this report is attached in Appendix D.

4.12.1 Environmental Setting

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.

Construction Noise

Construction is a temporary source of noise for residences and other uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

Background Information – 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 4.12-1 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 4.12-1: Effects of Vibration		
PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No effect
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.
0.5	Severe – vibration considered unpleasant	Threshold at which there is a risk of damage to newer residential structures.

Source: Caltrans. *Transportation and Construction-Induced Vibration Guidance Manual*. June 2004.

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.

4.12.1.1 Applicable Noise Standards and Policies

State Building Code

The State Building Code, Title 24, Part 2 of the State of 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 45 dBA DNL or CNEL²⁶ in any habitable room.

General Plan

The General Plan includes the following noise policies applicable to the proposed project. The City’s noise and land use compatibility guidelines are shown in Table 4.12-3, below.

Table 4.12-3: Land Use Compatibility Guidelines for Community Noise in San José						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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 would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

²⁶ DNL (or Ldn) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

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 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 meet 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

The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table 4.12-3). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL 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-1.3: Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

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 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 ground-borne 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 experiences 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 (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code Chapter 20.30.700, sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. Chapter 20.50.300 states the sound pressure level generated by any use or combination of uses shall not exceed 70 dBA at any property line shared with land zoned for industrial use, except upon issuance and in compliance with a Conditional Use Permit.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Federal Transit Administration

The Federal Transit Administration (FTA) has identified vibration impact criteria for sensitive buildings, residences, and institutional land uses near the rail transit and railroads. The thresholds for residences and buildings where people normally sleep are 72 VdB for frequent events (more than 70 events of the same source per day), 75 VdB for occasional events (30 to 70 vibration events of the

same source per day), and 80 VdB for infrequent events (less than 30 vibration events of the same source per day). The City of San José uses the FTA’s vibration impact criteria for sensitive buildings, residences, and institutional land uses near rail transit and railroads.

4.12.1.2 Existing Conditions

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways. A noise monitoring survey was completed for the entire 11.11-acre Brandenburg site. According to the Brandenburg FEIR, noise levels for the entire Brandenburg site ranged from 63 to 68 dBA. The highest noise levels were at the northwest corner of the site, closer to the flight path and to vehicle traffic on State Route (SR) 87.

The UPRR line is located approximately 25 feet north of the project site and there are currently three to four slow moving trains per day. Previous vibration measurements taken in proximity to the site²⁷ were used to estimate vibration levels on-site. Based on existing data, vibration levels within the first floor residential units were estimated to range from 69 to 75 VdB and from 67 to 73 VdB at the second floor residential units.

According to the City’s projected 2027 noise contours for San José International Airport, the project site is located outside the 65 dB CNEL noise contour. Based on the General Plan FEIR, the project site is within the existing and predicted 60 to 70 dBA noise contour for traffic noise.

4.12.1.3 Sensitive Receptors

The nearest noise sensitive receptors to the project site are the residences located approximately 58 feet north of the project site.

4.12.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13

²⁷ Illingworth & Rodkin, Inc. *Cannery Park Project Environmental Noise Assessment*. May 13, 2015. A copy of this report is attached in Appendix D.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5,13

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

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

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project would substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase 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 would exceed the normally acceptable

noise level standard. Where noise levels would 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.

City Of San José Standards

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

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

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

Construction Vibration

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

4.12.3 Noise Impacts

Similar to the site development evaluated in the Brandenburg FEIR, Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant noise and vibration impacts, as described below.

4.12.3.1 *Noise Impacts from the Project (Checklist Questions a – d)*

Project Generated Traffic Noise Impacts

An increase of three dBA is considered substantial in noise sensitive areas along roadways. Vehicular traffic on roadways in the City are anticipated to increase as development occurs and the population increases; however, the proposed project would have to double the existing traffic volume in the area to substantially increase noise levels (by three dBA or more). The project would generate

approximately 2,218 net new daily trips.²⁸ Although the proposed project would increase traffic noise in the area, the project is consistent with the planned growth in the downtown area and would not increase traffic noise levels above anticipated and would not double traffic volumes. Therefore, the project would have a less than significant long-term noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

Construction noise impacts depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise sensitive receptors. It is estimated the project would take approximately 23 months to construct. The construction of the proposed project would involve demolition of existing structures and pavement, site preparation, grading and excavation, trenching, building erection, and paving.

Construction of the project would temporarily increase noise levels in the immediate vicinity of the project site. Consistent with the Brandenburg FEIR, the Downtown Strategy FEIR, the Municipal Code and in accordance with the General Plan FEIR, the proposed project would be required to implement the following measures as Standard Permit Conditions during all phases of construction on the project site:

Standard Permit Conditions

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (Municipal Code Section 20.100.450).
- 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.

²⁸ Based on the "Apartments" and "Retail" land use rates contained in the San José TIA Handbook, August 2009. Please note the number of traffic trips generated by the project does not include any internalization reduction in trips for the mix of uses on-site. As a result, the total daily traffic trips are slightly overstated.

- 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.
- Consider the use of “acoustical blankets” for receptors located within 100 feet of the site during pile driving activities.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and 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 Standard Permit Conditions, the temporary increase in ambient noise levels in the project area would have a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Groundborne Vibration Impact

Pile driving would generate the highest ground borne vibration levels (approximately 0.644 in/sec PPV at 25 feet). Other 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 building is not anticipated to be a source of substantial vibration and construction vibration would not be substantial for the majority of the construction schedule.

Residential and commercial land uses within the vicinity of the project site include the residences located 58 feet north, residences located 220 feet northeast, residences located 260 feet east of the project site, and commercial buildings located 575 feet south of the project site. The vibration assessment concluded at these distances, except for the residences located 58 feet north, vibration levels due to impact pile driving would be at or below 0.11 in/sec PPV and vibration levels due to construction activity would be at or below 0.02 in/sec PPV, which would be below the 0.2 in/sec PPV significance threshold. The residences located 58 feet north of the site would experience vibration levels of up to 0.35 in/sec PPV due to impact pile driving and vibration levels of up to 0.22 in/sec PPV from vibratory pile driving, which would exceed the 0.2 in/sec PPV significance threshold. Additional sensitive receptors could be located within 100 feet of the project site if approved residential development to the south and southwest is constructed prior to the proposed project. These residences to the west would result in the same construction vibration exposure levels, in which the pile driving activities would exceed the significance threshold.

Impact NOI-1: Construction of the project would expose nearby residences to vibration levels in excess of City standards and could result in significant construction-related groundborne vibration impacts. **(Significant Impact)**

Mitigation and Avoidance Measures

Consistent with the General Plan FEIR and General Plan Policy EC-2.3, the project shall implement the following mitigation measures to reduce construction-related groundborne vibration impacts to a less than significant level:

MM NOI-1.1: The project applicant shall provide a list to the Supervising Environmental Planner of Planning, Building and Code Enforcement of all pile driving equipment to be used for this project and the anticipated duration of use for each piece of equipment. This list shall be used to identify equipment and activities that would generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Where possible, use of vibration-generating construction equipment shall be prohibited within 30 feet of any adjacent building.

MM NOI-1.2: The project applicant shall prepare and implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. The Plan shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The Plan shall include, but is not limited to, the following tasks:

- Identification of the sensitivity of on- and off-site structures to groundborne vibration. Vibration limits shall be applied to all vibration-sensitive structures located on or within 130 feet of pile driving construction activities identified as sources of high vibration levels.
- Performance of a photo survey, elevation survey, and crack monitoring survey for each structure within 130 feet of pile driving construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any pile driving construction activity, in regular interval during construction and after project completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls, and other structural elements in the interior and exterior of said structures.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies would be identified for when vibration levels approach the limits.

- At minimum, vibration monitoring shall be conducted during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
- If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- Designation of a person responsible for registering and investigating claims of excessive vibration. The contact information (i.e., name and phone number) of such person shall be clearly posted on the construction site.
- Direction on conducting post-construction surveys on structures where either monitoring has indicated high levels or complaints of damage have been made. The Plan shall include procedures for making appropriate repairs or providing compensation where damage has occurred as a result of construction activities.

The Plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement for review prior to the issuance of any grading permits.

MM NOI-1.3:

The project applicant shall submit a report summarizing the result of the vibration monitoring process during all demolition and construction phases to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement no later than a week after substantial completion of each phase identified in the project schedule of the Plan. The report shall include, but is not limited to, a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting such claims.

Implementation of these mitigation measures would result in a less than significant impact on groundborne vibration impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The nearest building is the apartment complex located approximately 58 feet north of the project site. According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV for historic structures and 0.20 in/sec PPV for building of conventional construction shall be used to minimize damage. Consistent with City policy, construction activities on-site would not generate vibration levels exceeding 0.2 in/sec PPV; therefore, the project would have a less than significant vibration impact on the apartment complex. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.3.2 *Airport Noise (Checklist Questions e and f)*

Norman Y. Mineta San José International Airport is located approximately 1.2 miles north of the project site. The project site is located within the AIA, but outside the City's projected 2027 65 dB CNEL noise contour. The General Plan 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)**]

4.12.3.3 *Existing Noise Conditions Affecting the Project (Checklist Questions a, b, e, and f)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

The policies of the City of San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. 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. Within the City of San José, applicable noise standards and guidelines for land uses 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 meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses.
- 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 would be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas.

Future Exterior Noise Environment

As proposed, the project would have a pool, amenity space, and common terrace space on the 17th floor and the residential units would have balconies. Pursuant to General Plan Policy EC-1.1, private balconies in multi-family buildings are excluded from the City's noise standards and are not discussed further. Based on the City's 2035 Traffic Noise Contours Map (Figure 3.3-2 of the General Plan FEIR), future noise levels on-site and within the project area would be within the "conditionally acceptable" range of 60 to 75 dBA. Noise on the project site is due, in part, to aircraft flyovers and the adjacent elevated freeway. Mitigation measure NOI-1b in the Brandenburg FEIR stated that "In order to reduce aircraft-related noise impacts, outdoor activity areas (e.g., patios, balconies, common recreation areas) should be situated as much as possible on the east side of buildings so that the residential structures could provide some noise shielding." Nevertheless, General Plan Policy EC-1.1, which supersedes the Brandenburg FEIR, only requires noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Future Interior Noise Environment

The California Building Code and the City of San José General Plan require that interior noise levels be maintained at 45 dBA DNL or less for residences. As mentioned above, future traffic noise levels on-site are estimated to be up to 70 dBA which is within the "conditionally acceptable" range of 60 to 75 dBA. Interior noise levels would vary depending upon the design of the buildings (ratio of window area to wall area), and the selected construction materials and methods.

The following conditions of approval would be required to ensure the project is consistent with applicable City policies:

Conditions of Approval

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all units so that windows can be kept closed to control noise.
- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources (transportation and non-transportation) during the design phase pursuant to requirements set forth in the California Building Code. The study shall also establish appropriate criteria for noise levels inside the commercial spaces affected by traffic noise. The study shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and reduce levels to the established criteria for the commercial uses; and, address and adequately control the noise from rooftop equipment on the adjacent building. Treatments would include, but are not limited to, sound-rated windows and doors, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis, including the

description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

With implementation of the conditions of approval, the project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1.

Rail line

City Policy EC-2.1 requires new development within 100 feet of rail lines to demonstrate, prior to project approval, vibration experiences by residents and vibration sensitive uses would not exceed FTA guidelines.

Based on the Vibration Assessment prepared by *Illingworth & Rodkin, Inc.*, vibration levels within the first floor residential units were estimated to range from 69 to 75 VdB and from 67 to 73 VdB at the second floor residential units. As mentioned in *Section 4.12.1.1*, the criterion for groundborne vibration impacts for infrequent events is 80 VdB. Because the vibration levels would not exceed the FTA and City's vibration impact criterion, the proposed project would be consistent with General Plan Policy EC-2.1.

4.12.4 Conclusion

With implementation of the proposed Standard Permit Conditions, and conformance with General Plan policies, the project would have a less than significant noise impact, consistent with the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.13 POPULATION AND HOUSING

4.13.1 Environmental Setting

Based on information from the Department of Finance E-5 report, the population of San José was estimated to be approximately 1,042,094 in January 2016 with an average of 3.22 persons per household.^{29,30} The City currently has approximately 329,824 housing units and, by 2040, the City’s population is projected to reach 1,445,000 with 472,000 households.³¹

The jobs/housing balance refers to the ratio of employed residents to jobs in a given community or area. When the ratio reaches 1.0, a balance is struck between the supply of local housing and jobs. The jobs/housing resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

The City 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.

4.13.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

²⁹ State of California, Department of Finance. “E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change – January 1, 2015 and 2016.” May 2016. Accessed April 13, 2017. <<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/>>.

³⁰ State of California, Department of Finance. “Table 2: E-5 City/County Population and Housing Estimates, 1/1/2016.” Accessed April 13, 2017. <<http://www.sanjoseca.gov/DocumentCenter/View/15743>>.

³¹ Center for the Continuing Study of the California Economy. *Projections of Jobs, Populations, and Households for the City of San José*. August 2008. Accessed April 13, 2017. <<http://www.sanjoseca.gov/DocumentCenter/View/3326>>.

Similar to the site development evaluated in the Downtown Strategy FEIR and the General Plan FEIR, the proposed project would result in less than significant population and housing impacts, as described below.

4.13.2.1 *Impacts to Population and Housing (Checklist Questions a and b)*

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

The General Plan FEIR concluded that the potential for direct growth-inducing impacts from build out of the General Plan is minimal because growth planned and proposed as part of the General Plan would consist entirely of development within the City's existing Urban Growth Boundary (UGB) and Urban Service Area (USA).

As proposed, the project would construct an 18-story residential tower with up to 302 residential units. Assuming 3.22 persons per household, the project would accommodate approximately 972 new residents in the City of San José.

The proposed residential units would comprise a small portion of the dwelling units already planned for the downtown as part of the Downtown Strategy, as well as the 120,000 net new dwelling units planned for in the General Plan. While the project would increase housing within the City, it would not result in unplanned residential growth as indicated in the approved General Plan and Downtown Strategy and analyzed in the Downtown Strategy FEIR and General Plan FEIR and it would not impact the jobs/housing imbalance. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The site is currently developed with two commercial/warehouse buildings. The proposed project would not result in the displacement of people or necessitate the construction of housing elsewhere. **[Same Impact as Approved Project (No Impact)]**

4.13.3 Conclusion

Implementation of the proposed project would have the same less than significant impact on population and housing as previously identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Environmental Setting

4.14.1.1 *Fire Protection Services*

Fire protection services for the site are provided by the San José Fire Department. Fire stations are located throughout the City to provide adequate response times to calls for service. SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 1, located at 225 Market Street, approximately 0.2 miles south of the project site. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles.

The General Plan identifies a service goal of a total response time of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

4.14.1.2 *Police Protection Services*

Police protection services for the project site are provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street. The police headquarters is located approximately 0.7 miles north of the project site.

The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

4.14.1.3 *Schools*

The project site is located within the San José Unified School District (SJUSD). The SJUSD currently has 27 elementary schools, six middle schools, and seven high schools in operation. The proposed project would be served by the schools listed in Table 4.14-1 below.

School	Location	Distance from Site
Grant Elementary School	470 East Jackson Street	0.8 miles northeast
Burnett Middle School	850 North Second Street	0.8 miles north
Lincoln High School	555 Dana Avenue	1.6 miles southwest

4.14.1.4 *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 of San José operates and maintains approximately 190 neighborhood-serving parks and nine regional parks.³²

³² City of San Jose. "Fast Facts." Accessed April 14, 2017. <<http://www.sanjoseca.gov/DocumentCenter/View/65881>>.

The nearest parks to the project site are Ryland Park, located approximately 0.2 miles north of the project site and St James Park, located approximately 0.2 miles southeast of the project site. The Guadalupe River Park and Trail is located approximately 0.2 miles west of the project site.

4.14.1.5 *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. Libraries near the project site include the Dr. Martin Luther King Jr. Main Library (approximately 0.9 miles southeast) and Joyce Ellington Branch Library (approximately 1.1 miles northeast).

4.14.1.6 *Applicable Public Services Regulations and Policies*

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

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.

2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

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

Policy ES-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.

4.14.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project						
a) 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:						
- Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
- Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
- Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
- Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
- Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

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

4.14.2.1 *Impacts to Public Services (Checklist Question a)*

Fire and Police Protection Services

Build out of the General Plan would increase calls for fire and police protection services. The General Plan 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 General Plan FEIR would result in the need for additional police

services, which would require supplemental environmental review but is not anticipated to have significant, adverse environmental impacts.

The project would intensify use of the site and generate additional residents in the area compared to existing conditions. The proposed project represents a small fraction of the total growth identified in the General Plan, which accounted for developed and approved projects under the Brandenburg project and Downtown Strategy Plan. In addition, 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 General Plan FEIR to avoid unsafe building conditions and promote public safety. As a result, implementation of the project would result in a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Schools

Build out of the General Plan is estimated to generate approximately 11,079 new students in the SJUSD. Based on a student generation rate of 0.272^{33,34} K-12 students per unit, future residential development on-site would generate approximately 83 new students. Of the 83 new students, approximately 42 would be elementary students, 18 would be middle school students, and 23 would be high school students. The following table shows the current capacity and enrollment numbers for the schools that would serve the project site.

School	Current Capacity	Current Enrollment
Grant Elementary School ³⁵	870	527
Burnett Middle School ³⁶	928	877
Abraham Lincoln High School ³⁷	1,798	1,908

The City’s General Plan identified the need for seven elementary schools, two middle schools, and two high schools to be constructed to serve new students generated from full build out of the General Plan. The proposed project is part of planned growth in the City and would not increase students in the SJUSD beyond what was anticipated in the General Plan and Downtown Strategy.

State Law (Government Code Section 65996) specifies that an acceptable method of offsetting a project’s effect on the adequacy of school facilities under CEQA is the payment of a school impact fee prior to the issuance of a Building Permit. The affected school district(s) is responsible for implementing the specific methods for mitigating school effects under the Government Code 65996

³³ Multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students, and 0.074 high school students per unit.

³⁴ Student generation rates for San José Unified School District was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (March 1, 2016).

³⁵ Capacity and Enrollment data for Grant Elementary School was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (April 5, 2017).

³⁶ Capacity data for Burnett Middle School was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (February 8, 2016). Enrollment data was derived from the Peter Burnett Middle School Accountability Report Card. Accessed May 23, 2016.

<http://www.sarconline.org/SarcPdfs/Temp/43696666062103.pdf>.

³⁷ Capacity and Enrollment data for Abraham Lincoln High School was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (April 5, 2017).

to offset the project-related increase in student enrollment. While the project would increase the number of students attending local schools, the General Plan FEIR concluded that implementation of applicable General Plan policies and programs and payment of impact fees would reduce impacts to local schools to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Parks

The City's population is estimated to reach 1.4 million by 2040, which would increase demand for park and recreational facilities. The Envision San José 2040 General Plan has a service level goal of providing 3.5 acres of neighborhood/community serving park land per every 1,000 population (General Plan Policy PR-1.1) and 7.5 acres per 1,000 population of citywide/regional parkland (General Plan Policy PR-1-2) to help meet the demand for neighborhood and community parks generated by the development of new residential parcels.

Full build out of the Downtown Strategy would result in an 87.5-acre deficiency of parkland under the City's PDO. The Downtown Strategy FEIR and 2040 General Plan FEIR concluded that the City's PDO would be satisfied through several ways including: dedication of land; payment of in-lieu fees; credit for qualifying private recreational amenities (based upon project design); and/or credit for improvement costs to parkland or recreational facilities. The project would be required to pay the applicable PDO/PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan policies PR-2.4 and PR-2.5.

The General Plan FEIR concluded that construction and/or expansion of parks and recreational facilities that are consistent with General Plan policies and existing regulations would reduce any physical impacts from development or expansion of parkland facilities to a less than significant level. Because the project would comply with the PDO requirements, the project would not result in new or more significant impacts on park facilities than those disclosed in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Libraries

The Dr. Martin Luther King Jr. Library opened in 2003 and provides more floor space and books per capita to serve the downtown population of San José than the City's service goals require. In addition, there are 22 branch libraries located throughout San José. Implementation of the project would generate approximately 972 new residents in the City of San José, which would increase the demand on neighborhood libraries. The City's existing and planned facilities would provide approximately 0.68 square feet of library space per capita for the anticipated population growth under full build out of the General Plan, which is above the City's service goal.

The General Plan FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The increased residents at the project site were analyzed as part of the City's General Plan, the Downtown Strategy, and as part of the planned residential growth in the City. As a result, implementation of the project

would not result in significant impacts to San José library facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3 **Conclusion**

The project would have the same less than significant impact on public services in the City of San José, as previously identified in the Brandenburg FEIR, General Plan FEIR, and Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15 RECREATION

4.15.1 Environmental Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks.³⁸ The City has 51 community centers and over 57 miles of trails.

As mentioned in *Section 4.14.1.4*, the City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. Nearby park and recreational facilities include the Guadalupe River Trail (located approximately 0.2 miles west of the site), Ryland Park (located approximately 0.2 miles north of the site), and St James Park (located approximately 0.2 miles southeast of the site). In addition, the Tech Museum of Innovation and the Children's Discovery Museum is located approximately 0.8 miles and 1.5 miles south of the project site, respectively.

4.15.1.1 *Applicable Recreation Regulations and Policies*

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

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to

³⁸ City of San Jose. "Fast Facts." Accessed April 14, 2017. <<http://www.sanjoseca.gov/DocumentCenter/View/65881>>.

the public after normal school hours or shall include one or more of these elements in its project design.

4.15.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, the proposed project would result in less than significant recreational impacts, as described below.

4.15.2.1 Impacts to Recreational Facilities (Checklist Questions a and b)

Build out of the Downtown Strategy would result in approximately 8,500 dwelling units and would have a parkland obligation of 87.5 acres. The Downtown Strategy FEIR and General Plan FEIR concluded that the PDO would be satisfied in several ways including: dedication of land, payment of in-lieu fees, credit for improvement costs to parkland, and/or credit for qualifying private recreation amenities in the project. The project proposes an approximately 2,652 square foot fitness space on the second floor. A pool, amenity space, and common terrace space is also proposed on the 17th floor. These on-site amenities may reduce uses to existing recreational facilities in the area. The proposed project would not cause substantial physical deterioration of local, off-site recreational facilities and would not result in the need for construction of new facilities or expansion of existing recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15.3 Conclusion

The project would result in the same less than significant impact on recreational facilities as previously identified in the Brandenburg FEIR, General Plan FEIR, and Downtown Strategy FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 TRANSPORTATION/TRAFFIC

4.16.1 Environmental Setting

In June 2005, the City certified the Downtown Strategy FEIR which included a comprehensive traffic analysis that identified existing conditions in the year 2000 and conditions anticipated to occur with identified future development within the downtown area, including the project area. In July 2016, an Addendum to the Downtown Strategy FEIR was prepared which updated traffic conditions. It was determined that up to 7,500 dwelling units (Phase 1 of the Downtown Strategy) could be constructed within downtown without resulting in new or different traffic impacts than had been disclosed in the original Downtown Strategy FEIR.

In addition, the Brandenburg FEIR completed a project-level transportation impact analysis for 60,000 square feet of commercial space and 1,500 residential units. According to the Brandenburg FEIR, the existing roadways in the project area would be modified. The roadways that would be affected include Julian Street, Terraine Street, Devine Street, and St. James Street. According to the Brandenburg FEIR, the curved portion of the roadway on Julian Street would be removed and replaced with a straight extension that would connect to Terraine Street. Terraine Street would be extended to St. James Street and Devine Street would be connected to Terraine Street. A new intersection would be created at Terraine Street and Julian Street. Approximately three new traffic signals would be installed at the new intersection. The City is currently modifying the roadways within the Brandenburg project area consistent with the approved project design.

The project site is bounded by Terraine Street to the west, Bassett Street to the south, and North San Pedro Street to the east. In the vicinity of the project site, all three roadways are two lane roads. Terraine Street spans two blocks from Bassett Street to Devine Street. Bassett Street runs from North Second Street to its terminus west of Highway 87. North San Pedro Street runs approximately four city blocks from Bassett Street to West Santa Clara Street.

4.16.1.1 *Applicable Transportation Regulations and Policies*

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-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas.

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

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

Policy TR-8.9: 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.

4.16.2

Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

Similar to the site development evaluated in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, and addenda thereto the proposed project would result in less than significant transportation impacts, as described below.

4.16.2.1 *Roadway Impacts (Checklist Questions a and b)*

The project proposes approximately 7,821 square feet of retail space of which 1,996 square feet would be restaurant and 5,825 square feet would be retail space. In addition, there would be a 1,458 square foot leasing office and a lobby. The total non-residential square footage on the first floor would be approximately 10,150 square feet. The Downtown Strategy FEIR concluded that local and regional traffic impacts resulting from downtown development would impact 36 intersections and 48 directional freeways segments. Roadway improvements within the Brandenburg site were identified in the Brandenburg FEIR and the Downtown Strategy FEIR. The Brandenburg FEIR included realignment of Julian Street, between Market and St. James Streets, and implementation of a grid street system. The proposed improvements are currently underway or have been constructed as planned.

Implementation of the Downtown Strategy would result in congestion at numerous study intersections; however, development in the Downtown Core area is exempt from the City's level of service policy and traffic mitigation requirements. The project is part of planned growth in the downtown area and the 2016 Addendum to the Downtown Strategy concluded that the increase in residential capacity would not result in any new traffic impacts beyond those identified in the original Downtown Strategy FEIR. **[Same Impact as Approved Project (Significant Impact)]**

4.16.2.2 *Other Transportation Impacts (Checklist Questions a, c – f)*

The proposed project would conform to all applicable General Plan policies and would not conflict with adopted plans, policies, or programs related to alternative transportation. The California Fire Code requires driveways to provide 32 feet of clearance for fire access. The final site design would be reviewed for consistency with applicable fire department standards. The project would be required to comply with the height restrictions established by the FAA and would not result in a change in air traffic patterns (see *Section 4.8, Hazards and Hazardous Materials*).

In addition, the project is located along the northwestern corner of Bassett Street and North San Pedro Street and would construct a full access driveway on North San Pedro Street to access the parking structure. A loading dock access would also be located on North San Pedro Street. The proposed project would construct a 10 foot sidewalk and Americans with Disabilities Act (ADA) ramps along both project frontages, thus improving the pedestrian environment. Overall, the proposed garage driveway and improvements are adequate to serve the site and are consistent with the Brandenburg FEIR. **[Same Impact as Approved Project (No Impact)]**

4.16.3 Conclusion

Implementation of the project would result in the same significant impacts to transportation as was previously identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Significant Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Environmental Setting

4.17.1.1 *Water Services*

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the San José Water Company. There are currently no recycled water lines in the immediate site vicinity.³⁹

When occupied, the existing commercial buildings on-site are estimated to use approximately 2,680 gallons per day (gpd) of water.^{40,41}

4.17.1.2 *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.⁴² 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.

There is an existing sewer line along Bassett Street that connects to a sanitary sewer line on North San Pedro Street. The existing sanitary sewer main on Bassett Street is 54 inches in diameter. The existing commercial buildings on-site generate approximately 2,680 gpd of wastewater.

4.17.1.3 *Stormwater Drainage*

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River. Guadalupe River flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

³⁹ South Bay Water Recycling. "Recycled Water Pipeline System." July 28, 2011. Accessed April 19, 2017. <<https://www.sanjoseca.gov/DocumentCenter/View/4692>>.

⁴⁰ Based on a combined building footprint of 26,800 square feet.

⁴¹ Based on a water demand of 0.10 gallons per square feet per day for retail space. Water usage numbers were based on a Water Supply Assessment (WSA) prepared by the San José Water Company for the Santana Row Expansion Project which utilized standard usage rates for retail/commercial and residential land uses in San José.

⁴² City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed June 16, 2017.

<<http://www.sanjoseca.gov/?nid=1663>>.

Currently, the project site is 100 percent covered in impervious surfaces. There is an existing storm drain line along Bassett Street which consists of a 42-inch line that converts to a 12-inch storm drain line.

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. According to the IWMP, the County adequate disposal capacity beyond 2022. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

When occupied, the existing development on-site is estimated to generate approximately 67 pounds of solid waste per day.^{43,44}

4.17.1.5 *Applicable Utilities and Service Systems Regulations and Policies*

The General Plan includes the following utilities and service system policies applicable to the proposed project.

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

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy IN-3.10: 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).

⁴³ California Integrated Waste Management Board. "Commercial Sector Generation Rates". Accessed April 24, 2017. <<https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>>.

⁴⁴ Solid waste generation was estimated at a rate of 2.5 pounds per 1,000 square feet per day for commercial retail space.

4.17.2

Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-5

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

4.17.2.1 *Water Supply (Checklist Questions b and d)*

As mentioned in *Section 4.17.1.1*, the existing buildings on-site, when occupied, use approximately 2,680 gpd of water. The proposed project would result in construction of an 18-story residential tower with up to 302 residential units and approximately 7,821 square feet of ground floor retail. The project would use approximately 121,582 gallons of water daily.^{45,46}

The General Plan FEIR determined that the City's water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan policies, existing regulations, adopted plans and other City policies would continue to require water conservation measures be incorporated in new development which would substantially reduce water demand. In addition, the General Plan FEIR concluded that with implementation of General Plan water conservation policies and regulations, full build out under the General Plan would not exceed the available water supply under standard and drought conditions.

The proposed project is part of the Brandenburg FEIR and Downtown Strategy FEIR. The project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the General Plan FEIR. As a result, implementation of the proposed project would have a less than significant impact on the City's water supply. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.2 *Sanitary Sewer Capacity (Checklist Questions a, b, and e)*

Implementation of the proposed project would generate 103,344 gpd of wastewater.⁴⁷ The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. The proposed project is consistent with the development assumptions in the General Plan, in that it would develop residential and retail uses drawing from the total development capacity created by the Downtown Strategy. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.3 *Storm Drainage System (Checklist Question c)*

Under existing conditions, the project site is 100 percent impervious (approximately 35,726 square feet). Under project conditions, the impervious surfaces on-site would decrease by approximately seven percent. This would result in a slight decrease in stormwater discharge from the site to the storm drainage system.

⁴⁵ Water usage numbers were calculated using the demand factors listed in the Water Supply Assessment (WSA) prepared by the San José Water Company for the Santana Row Expansion Project.

⁴⁶ Based on a demand factor of 400 gpd per unit, the 302 residential units would use approximately 120,800 gpd of water. Based on a demand factor of 0.10 gpd per square foot, the retail space would use approximately 782 gpd of water.

⁴⁷ Assumes wastewater is equal to 85 percent of total potable water use on-site due to limited landscaping.

The Downtown Strategy FEIR concluded that full build out of the Downtown Strategy plan would result in an overall net decrease in impermeable surfaces. The existing storm drainage system would have sufficient capacity to support the development proposed under the Downtown Strategy FEIR, including the proposed project. Because construction of the project would result in the creation of more than 10,000 square feet of impervious surface area, the project would be required to comply with the City's Post-Construction Urban Runoff Management Policy 6-29 and the RWQCB MRP (refer to *Section 4.9 Hydrology and Water Quality*). Implementation of the project would have a less than significant impact on the City's storm drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.4 *Solid Waste (Checklist Questions f and g)*

The proposed project would generate approximately 1,624 pounds of solid waste per day.^{48,49} The General Plan FEIR concluded that the increase in waste generated by build out of the General Plan would not cause the City to exceed the capacity of existing landfills serving the City. Future increases in solid waste generation from developments allowed under the General Plan 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 on solid waste disposal capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.3 Conclusion

Implementation of the proposed project would have the same less than significant utilities and service system impacts as previously identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

⁴⁸ California Integrated Waste Management Board. "Estimated Solid Waste Generation Rates". Accessed April 24, 2017. <<https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>>.

⁴⁹ Solid waste generation was estimated at a rate of 2.5 pounds per 1,000 square feet per day for commercial retail space and 5.31 pounds per dwelling unit per day for multi-family units.

4.18

MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
a) Does the project have the potential to 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, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13
c) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13
d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13

4.18.1 **Project Impacts** (Checklist Question a)

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 and mitigation measures.

As discussed in *Section 4.3 Air Quality*, construction activities on-site would include building demolition, excavation, grading and site preparation, trenching, building construction, and paving

which may generate dust and other particulate matter. The project would be required to implement the identified Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions. Implementation of MM AIR-1.1 would reduce community risk impacts from construction of the project to less than significant.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitat or species. With implementation of MM BIO-1.1, the project would not impact nesting raptors or migratory birds. As discussed in *Section 4.4.3.3*, the project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the Habitat Plan; however, the project site is 0.77 acres in size (below the two-acre threshold) and is not subject to the requirements of the Habitat Plan. In addition, all projects in the City, including the proposed project, would be required to pay the cumulative nitrogen deposition fees.

Construction activities may disturb and uncover subsurface cultural resources on-site. Implementation of MM CUL-1.1 and MM CUL-1.2 would avoid or reduce impacts to cultural resources to a less than significant level. The project would implement the Standard Permit Conditions listed in *Section 4.6 Geology and Soils* to reduce construction related erosion impacts. The existing development on-site was built circa 1970 and is likely to contain harmful levels of ACMs or lead. The project would be required to implement the Standard Permit Conditions as mentioned in *Section 4.8 Hazards and Hazardous Materials* to reduce ACM and/or lead-based paint impacts. As discussed in *Section 4.9 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 4.12 Noise and Vibration*, the project would be required to implement Standard Permit Conditions to reduce noise impacts from construction activities near sensitive land uses. The project would be required to implement MM NOI-1.1, NOI-1.2, and NOI-1.3 to reduce construction vibration impacts. The proposed project would not result in new or more significant impacts than identified in the Brandenburg FEIR, the Downtown Strategy FEIR, and the General Plan FEIR, General Plan Supplemental EIR, and addenda thereto.

4.18.2 **Cumulative Impacts** (*Checklist Question b*)

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail. Because a project’s criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified project-level thresholds were developed such that a project-level impact would also be a cumulatively considerable impact. Although the project would not result in a project-level impact, the project would, however, contribute to the cumulative air quality impact, as identified in the Brandenburg FEIR and Downtown Strategy FEIR (as discussed further below). In addition, the proposed project was analyzed for cumulative health risk associated

with construction-related emissions. Results of the analysis show that the project would not contribute to cumulative health risks (refer to *Section 4.3 Air Quality* and Appendix A).

4.18.2.1 Cumulative Air Quality Impacts (Checklist Question b)

The project would result in a temporary TAC emissions impact resulting from construction of the proposed development, due to the proximity of sensitive receptors. The impact would be temporary and would be reduced to a less than significant level with implementation of the proposed mitigation measures. Nevertheless, construction of the proposed project, combined with existing mobile emissions sources in the area (Highway 87 and the UPRR line) could result in a temporary cumulative impact. Table 4.18-1 below shows the cumulative health risk during project construction.

Table 4.18-1: Cumulative Community Risk Impacts During Construction			
Source	Maximum Cancer Risk (per million)	Maximum Annual PM_{2.5} Concentration	Maximum Hazard Index
Project Construction	87.2	0.3	0.06
SR-87	<1.7	<0.2	<0.01
UPRR Line	7.8	<0.1	<0.01
Cumulative Total	<96.7	<0.6	<0.08
BAAQMD Threshold – Cumulative Sources Exceed Threshold?	>100	>0.08	>10.0
	No	No	No

The cumulative sources of emissions would not exceed BAAQMD thresholds for community risk.

4.18.3 Short-Term versus Long-Term Environmental Goals (Checklist Question c)

The site is currently developed with two commercial/warehouse buildings. The site would be redeveloped with residential and retail uses. Urban development, including those proposed uses, are consistent with the long-term goals for the site as outlined in the General Plan and the Downtown Strategy. The construction of the project would result in the temporary disturbance of developed land as well as an irreversible and irretrievable commitment of resources and energy during construction.

4.18.4 Direct or Indirect Adverse Effects on Human Beings (Checklist Question d)

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction air quality, hazardous materials, and noise. Implementation of mitigation measures and 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.

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1. CEQA Guidelines – Environmental Thresholds (professional judgement and expertise and review of project plans).
2. City of San José. San José General Plan and Municipal Code.
3. City of San José. General Plan FEIR
4. City of San José. Downtown Strategy FEIR
5. City of San José. Brandenburg Mixed Use Project/North San Pedro Housing Sites FEIR
6. California Department of Natural Resources, Santa Clara County Important Farmland 2014 Map.
7. Bay Area Air Quality Management District. Air Quality Guidelines. June 2011
8. Illingworth & Rodkin, Inc. *Air Quality Assessment*. July 11, 2017.
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10. TRC Companies, Inc. *Geotechnical Investigation Report*. January 13, 2016.
11. Langan Treadwell Rollo. *Phase I Environmental Site Assessment*. May 12, 2017.
12. Federal Emergency Management Agency. *Flood Hazard Maps*. 2009.
13. Illingworth & Rodkin, Inc. *Groundborne Vibration Assessment*. August 14, 2017.

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- Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed on April 18, 2017. <http://www.scvurppp-w2k.com/HMP_app_maps/San_Jose_HMP_Map.pdf>.
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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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