

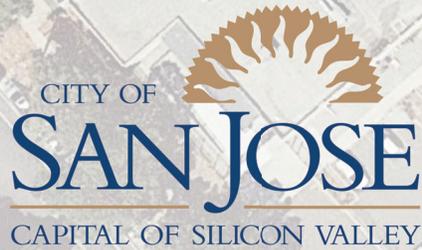
Initial Study

Stockton Avenue Hotel and Condominiums Project

C19-039 and SP19-063



Prepared by



In Consultation with



December 2019

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study (IS) in support of an Addendum to the Downtown Strategy 2040 Final EIR (FEIR) in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulation and policies of the City of San José.

1.1.1 Downtown Strategy 2040

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

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

1.1.2 Relationship with DSAP PEIR

The project site is within the Diridon Station Area Plan (DSAP) and Downtown Strategy 2040 Plan boundaries. The DSAP Programmatic Environmental Impact Report (PEIR) evaluated the impacts of developing up to 4,963,400 square feet of commercial/research and development/light industrial uses, 424,100 square feet of retail/restaurant uses, 2,588 dwelling units, and 900 hotel rooms. Specific development projects were not proposed – only maximum development capacities for residential, commercial, retail, and hotel uses were established.

Both the Downtown Strategy 2040 FEIR (Section III Project Description) and DSAP PEIR (Section 2.5 Uses of the EIR) provide guidance on CEQA documentation of future specific development projects. One objective of the Downtown Strategy 2040 FEIR was to develop project-level information (e.g., traffic and circulation) whenever possible, so that subsequent environmental analyses will be needed only when there are significant departures from Strategy 2040, or where circumstances unique to a specific project site that have not been analyzed in this EIR (e.g., archaeological or historic characteristics, visual or aesthetic resources, hazardous materials). Similarly, the DSAP PEIR contains sufficient information to provide project-level clearance for certain impacts for specific future development projects in the DSAP area by including standard measures that apply to all projects in San José. The DSAP PEIR also provided project-level clearance for certain traffic-related impacts. It was contemplated that at the time future actions were proposed (such as approval of specific projects), the City will review the future actions for consistency with the assumptions in the DSAP PEIR, including conformance with General Plan policies and measures included in the project.

It was also contemplated that supplemental analyses may be required as part of the subsequent environmental review process to evaluate impacts that are unique to a specific project site or design and could not be analyzed in sufficient detail in the DSAP PEIR and to identify additional mitigation measures, if necessary. It was envisioned that future private development consistent with the DSAP and the assumptions in the DSAP PEIR would likely prepare an Initial Study supporting an Addendum.

New project specific technical reports were also contemplated by the DSAP PEIR. It was anticipated that most future projects under the DSAP would be required to complete a Phase I Environmental Site Assessment, Tree Survey, and other reports, as needed. Projects with a residential component would need to complete additional studies, including at least the following site specific studies: Noise Reports as identified in Impact NV-1, and Human Health Risk Assessments and Air Quality Modeling to assess TAC exposure, as identified by Impact AQ-4 of the DSAP PEIR. For projects that would impact structures more than 45 years old, preparation of a Historic Resources Report would be required. These technical studies have been prepared for the proposed project, and can be found in the Appendices of this Initial Study.

Consistent with these guidelines provided in the DSAP PEIR, this Initial Study in support of an Addendum to the Downtown Strategy 2040 FEIR has been prepared, which includes project-specific technical reports. The DSAP PEIR is available on the City's website:
<http://www.sanjoseca.gov/index.aspx?NID=4430>.

1.2 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Stockton Avenue Hotel and Condominiums Project
Planning Project numbers: C19-039 and SP19-063

2.2 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Planning Division
City Hall, Third Floor
200 East Santa Clara Street
San José, CA 95133

Environmental Review

Reema Mahamood, Planner III
Phone: (408) 535-6872
Email: reema.mahamood@sanjoseca.gov

2.3 PROJECT APPLICANT

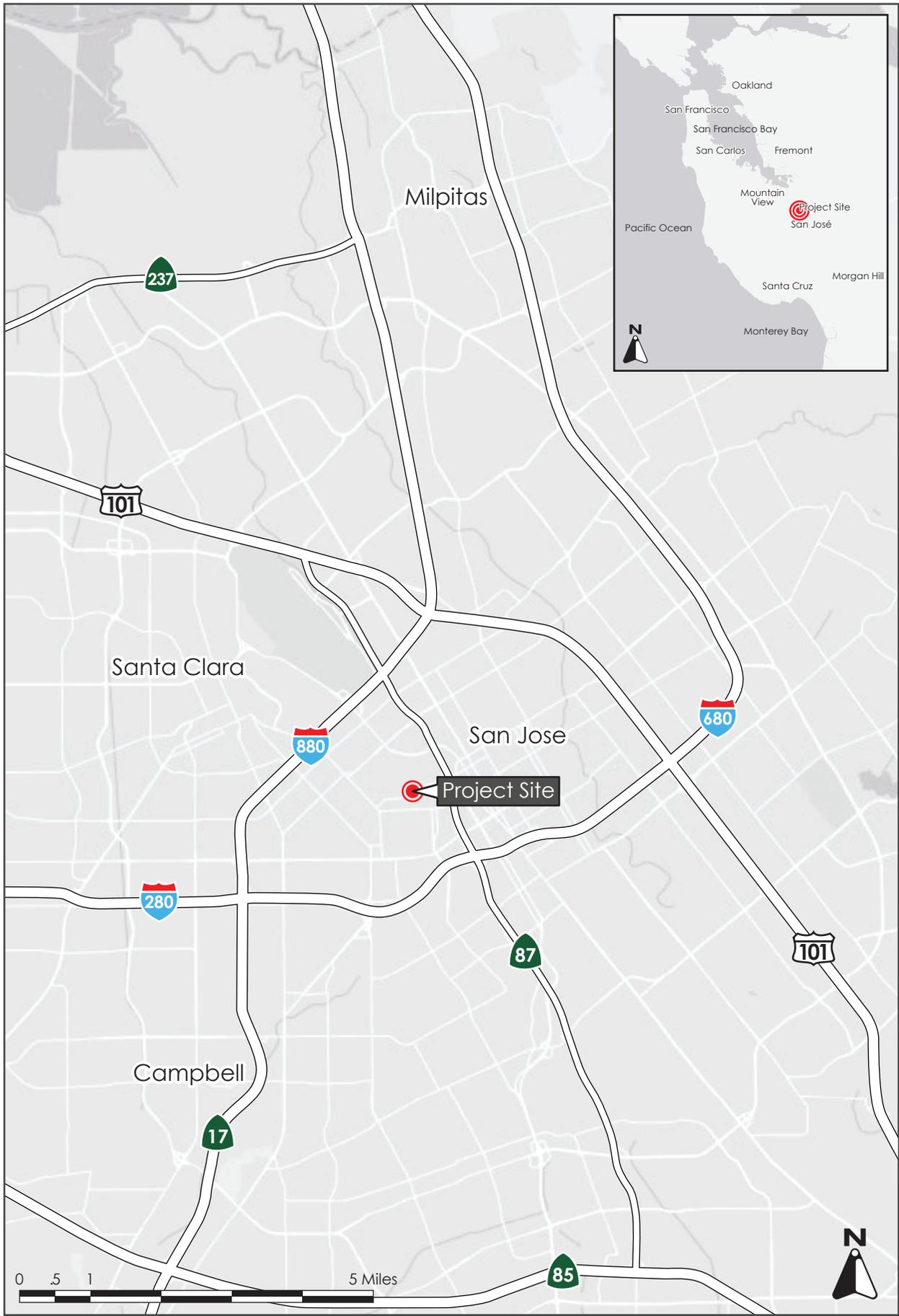
Architectural Dimensions
300 Frank H. Ogawa Plaza
Oakland, CA 94612
Phone: (510) 463-8300

2.4 PROJECT LOCATION

The approximately 0.86-acre project site is located on the southeast corner of Stockton Avenue and West Julian Street at 292 Stockton Avenue in Downtown San José. Regional and vicinity maps of the project site are shown in Figures 2.0-1 and 2.0-2. An aerial photograph showing surrounding land uses is shown on Figure 2.0-3.

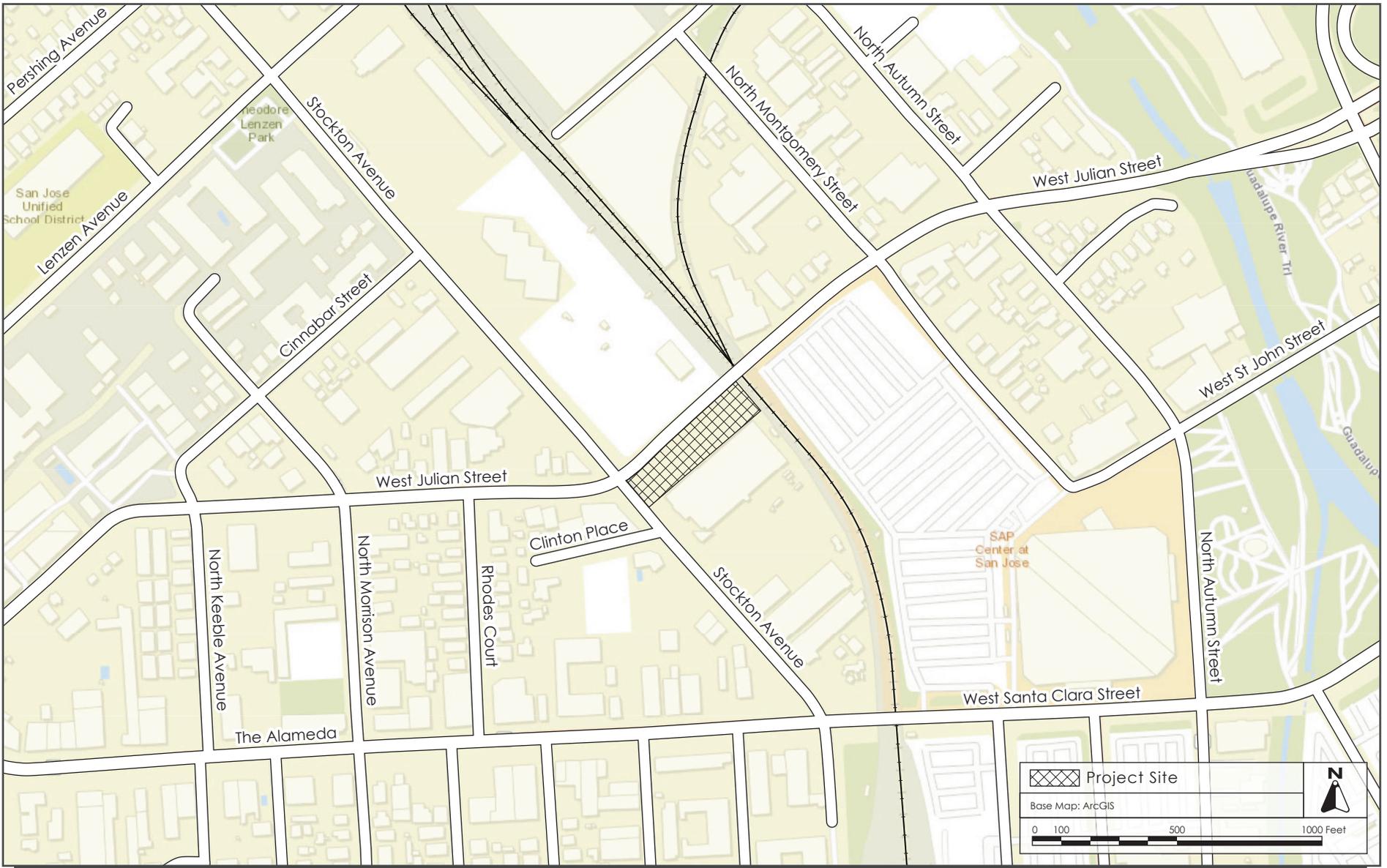
2.5 ASSESSOR'S PARCEL NUMBER

259-28-028



REGIONAL MAP

FIGURE 2.0-1



VICINITY MAP

FIGURE 2.0-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.0-3

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

2.6.1 General Plan Land Use Designation

The project site is designated *Urban Village* and located within the Downtown Growth Area under the General Plan.

2.6.2 Zoning District

The project site is zoned *HI – Heavy Industrial*.

2.7 HABITAT PLAN DESIGNATION

Land Cover Designation: *Urban – Suburban*
Development Zone: *Area 4 – Urban Development equal to or greater than two acres covered*
Fee Zone: *Urban Areas*
Owl Conservation Zone: *N/A*

2.8 PROJECT APPROVALS

- Conventional Rezoning
- Special Use Permit
- Tentative Map

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

The 0.86-acre project site is located at 292 Stockton Avenue (APN 259-28-028) on the southeast corner of Stockton Avenue and West Julian Street in Downtown San José. The project site is currently undeveloped and located within the boundaries of the Diridon Station Area Plan (DSAP). The project proposes to develop the site with a nine-story building consisting of 303 hotel rooms¹ and 19 residential condominium dwelling units. Parking would be provided in a below-grade garage, accessible from a driveway entrance on Stockton Avenue.

The site is designated *Urban Village* under the City's General Plan and zoned *HI – Heavy Industrial*. The project site is also located within the Downtown Growth Area of the City's General Plan. The DSAP serves as the Urban Village Plan for the project site. The proposed hotel and dwelling units are allowed uses under DSAP. The project proposes a conventional rezoning from *HI - Heavy Industrial* zoning district to *DC - Downtown Primary Commercial* zoning district and a Special Use Permit for the proposed building.

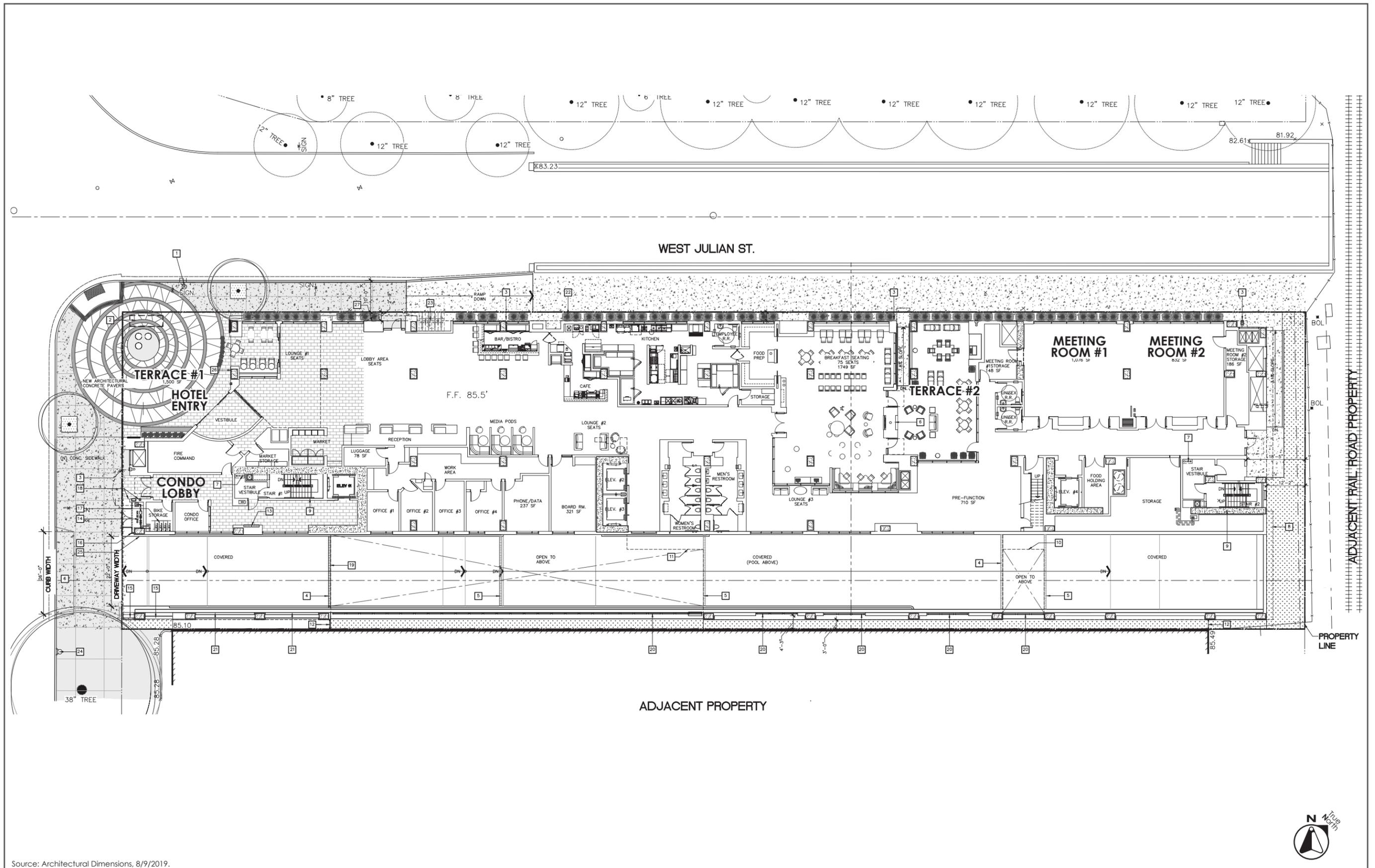
The proposed project is specified as a transit-oriented development because it has a residential component that is located near existing transit facilities. Specifically, the project site is approximately 0.35-mile from the Diridon Station, an eight-minute walk or a four-minute bike ride. The Diridon Station is a transit hub for Caltrain, Amtrak, Capital Corridor, ACE rail, VTA Light Rail, and local and regional bus service.

3.2 PROPOSED DEVELOPMENT

3.2.1 Site Design

The project proposes to develop the site with a nine-story building consisting of 303 hotel rooms and 19 condominium dwelling units. The first floor of the proposed development would include a lobby, lounges, offices, a fitness room, a pool, meeting rooms, a reception area, and a kitchen area (see Figure 3.0-1). The second through eighth floor of the building would include a total of 303 hotel rooms. In addition to the hotel rooms, the eighth floor of the building would also include four two-story condominiums that would extend to the ninth floor (see Figure 3.0-2). The ninth floor of the building would include an additional 15 single-level residential condominiums for a total of 19 condominiums. The residential condominiums would consist of one or two bedroom units ranging in size from 806 square feet to 2,229 square feet. The maximum height of the building would be approximately 109 feet, at the top of the mechanical equipment (see Figures 3.0-3 and 3.0-4). The proposed building would be developed up to the property line along Stockton Avenue and West Julian Street. The building would also be set back approximately 12 feet from the adjacent rail line and approximately three feet from the adjacent building. Figures 3.0-6 to 3.0-7 are conceptual drawings of the finished hotel and condominium buildings.

¹ The hotel is a commercial condominium resulting in 20 condominium units on the site for the purposes of the Tentative Map.



Source: Architectural Dimensions, 8/9/2019.

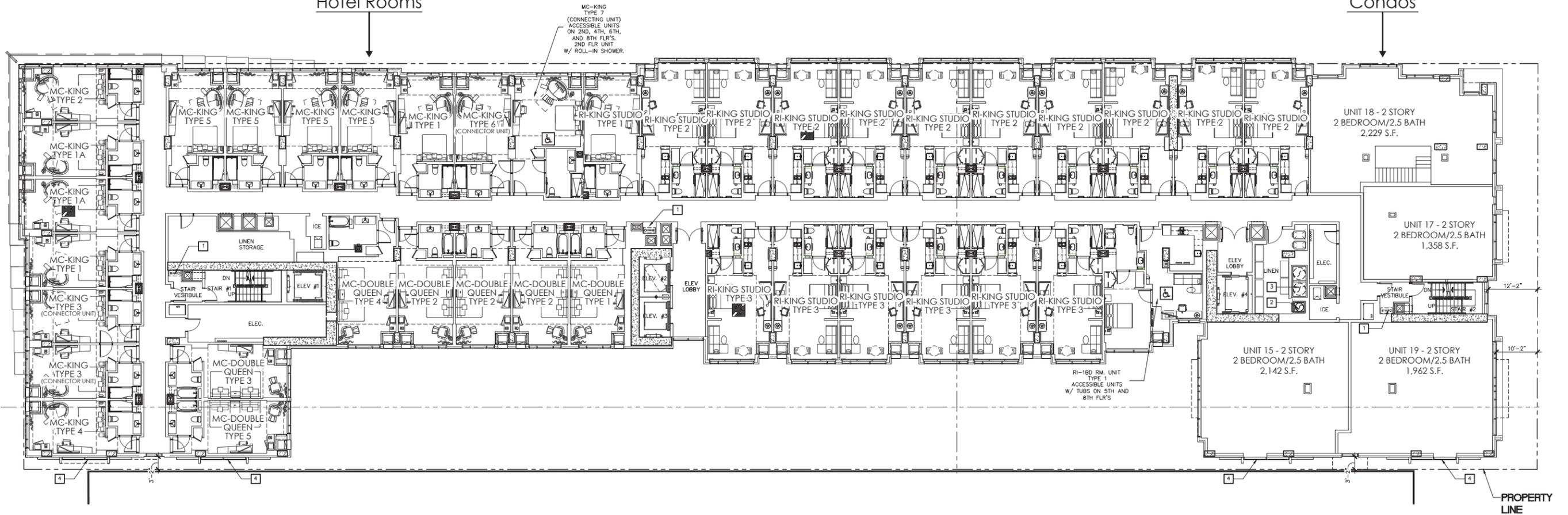
PROPOSED FIRST FLOOR SITE PLAN

FIGURE 3.0-1

WEST JULIAN ST.

Hotel Rooms

Condos



ADJACENT PROPERTY



Source: Architectural Dimensions, 8/9/2019.

PROPOSED EIGHTH FLOOR SITE PLAN

FIGURE 3.0-2



Northern Elevation

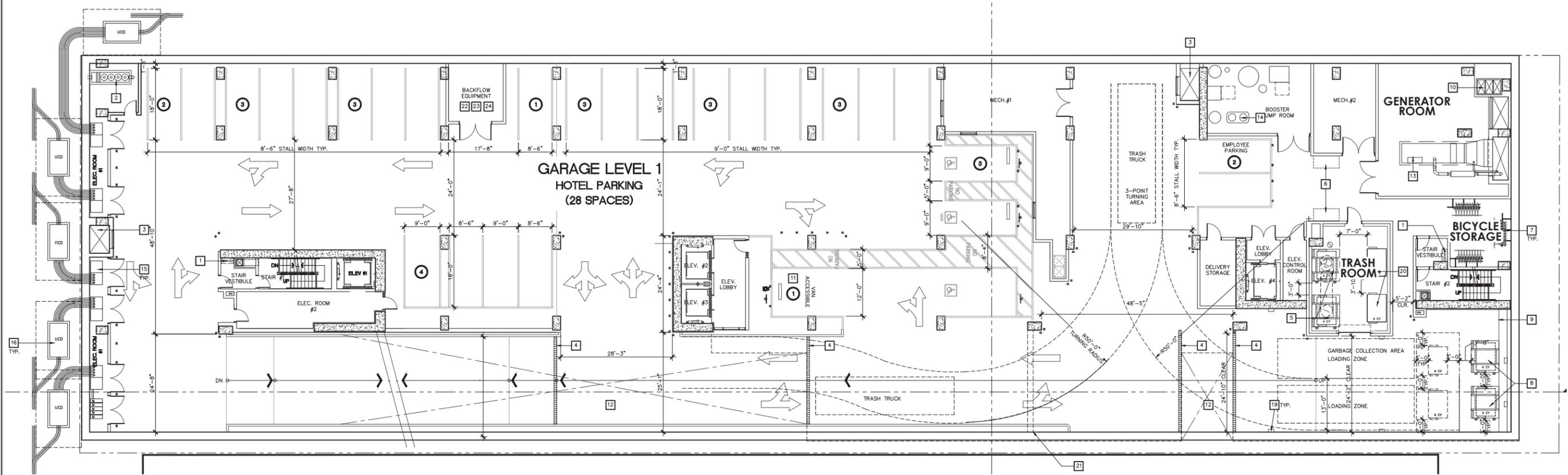


Southern Elevation

Source: Architectural Dimensions, 8/9/2019.

CONCEPTUAL NORTHERN AND SOUTHERN ELEVATIONS

FIGURE 3.0-3



Source: Architectural Dimensions, 8/9/2019.

PROPOSED FIRST FLOOR GARAGE FLOOR PLAN

FIGURE 3.0-5





CONCEPTUAL STOCKTON AVENUE AND WEST JULIAN STREET PERSPECTIVE PLAN

FIGURE 3.0-6



Source: Architectural Dimensions, 8/9/2019.

CONCEPTUAL WEST JULIAN STREET PERSPECTIVE PLAN

FIGURE 3.0-7

Common Areas and Landscaping

On the first floor of the hotel, there would be two terraces on the northeastern and northwestern portion of the building. The first-floor terrace on Julian Street would be for hotel guests only. The second floor would include a pool and fitness center. The hotel amenities that are available to the condominium residents would be the fitness center and the pool. The project would include a 525 square-foot roof deck and 660 square-foot common area on the ninth floor of the building for condominium residents only. Trees would be planted along the perimeter of the property of various species including strawberry trees, yew podocarpus, and miniature chusan palm trees. Other landscaping, including grass, shrubs, and vines, would also be planted along the perimeter of the building.

Site Access and Parking

Parking would be provided in a three-level below-grade garage, accessible from a driveway entrance on Stockton Avenue (see Figure 3.0-5). There would be 109 dedicated hotel parking spaces and 20 private condominium spaces for a total of 129 spaces. Thirteen total electric vehicle parking spaces would be provided including 12 spaces for the hotel and one space for the condominiums. Six Americans with Disabilities Act (ADA) accessible parking spaces would be provided, which would meet the parking requirements per the San José Municipal Code. The project would also provide 47 bicycle parking spaces on the first level of the garage and on the ground floor.

Utility Improvements

Stormwater runoff from the site would be collected and pumped through a mechanical filtration system and discharged into an 18-inch storm drain manhole in Stockton Avenue. A landscaped stormwater retention area would be located on the northeast side of the building. Wastewater from the project site would be directed to sanitary sewer lines in Stockton Avenue and West Julian Street. A backup diesel generator would be located at the northeast corner of the building on the first below-grade parking level.

3.2.2 Construction

Construction of the proposed project is currently anticipated to start in spring 2020 and would take approximately two years to complete. Excavation would extend to approximately 43 feet to accommodate the three-level below-grade parking garage and would require approximately 50,280 cubic yards of soil export and 45 cubic yards of soil import. Remediation of the contaminated soil would also occur during construction (Refer to *Section 4.9 Hazards and Hazardous Materials*).

Construction activities associated with the proposed project include utility connections, building construction, frontage improvements (e.g., new street trees, new curb, gutter, sidewalk and driveway construction and placing existing overhead utility lines underground), and landscaping on the site.

During construction, all staging activities (e.g., equipment and material storage) would occur on the project site.

3.2.3 Project Operations

The proposed project would include two separate lobbies for hotel guests and condominium residents both accessed from Stockton Avenue. The condominium residents would access the ninth floor using a separate elevator with controlled key access. Hotel guests would access the first through eighth floor using a key card.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project’s impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact AIR-1 answers the first checklist question in the Air Quality section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM AIR-1.1 refers to the first mitigation measure for the first impact in the Air Quality section.

Although the project proposes a mix of uses, condominiums and hotel rooms, the redevelopment of the vacant project site with a multi-story building would have similar impacts for each subject area addressed in this Initial Study. Where the analysis for each use vary such as criteria air pollutant emissions, vehicle miles travelled (VMT), or public services, the relevant guidelines for the analysis of that subject are noted in the discussion.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

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

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.²

The exemption for aesthetic impacts, however, does not include impacts to historic or cultural resources. Local governments retain their ability to regulate a project's transportation, aesthetics, and parking impacts outside of the CEQA process.

Scenic Highways Program

The California Scenic Highway Program is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no state-designated scenic highways in San José. State Route 9 is a state-designated scenic highway located in Santa Clara County. Interstate 280 from the San Mateo County line to State Route 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.³

² An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed May 1, 2018. <http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html>.

³ California Department of Transportation. "Scenic Highways". <http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html>

City of San José

Municipal Code

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

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

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

City Design Guidelines and Design Review Process

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

DSAP Design Guidelines

The DSAP contains design guidelines to assist the City with the review of future development and implementation of public improvement projects within the DSAP area. The design guidelines are intended to facilitate development in a financially viable manner that is consistent with the long-term vision of the DSAP and achieves current City policies. The DSAP design guidelines are generally consistent with General Plan policies and actions intended to guide development in Downtown.

The design guidelines are separated into three categories: 1) Built Form, 2) Open Space Network, and 3) Streetscape. The Built Form guidelines generally apply to private development sites (such as the project site). The Built Form guidelines include standards and recommendations for site planning and building design, including maximum building heights based on location within the DSAP. According to the guidelines, new development should be oriented to the street, incorporate active ground floor uses, and provide direct connections for pedestrians and bicyclists through pathways that connect to the public street and open space networks. The Built Form guidelines and the design guidelines call for "sustainable site planning" through the integration of natural assets and green building practices (e.g., on-site stormwater collection systems).

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the

color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

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

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

Envision San José 2040 General Plan

The 2040 General Plan identifies “gateways,” freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segments of Bird Avenue over I-280 and South First Street in the Downtown area is designated as gateways for scenic purposes.

None of the City’s designated gateways, rural scenic corridors, or views from urban corridors as described in the City’s General Plan are in the vicinity of the project site.

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

General Plan Policies - Aesthetics	
Attractive City	
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-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
Policy CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
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

General Plan Policies - Aesthetics	
	built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
Downtown Urban Design	
Policy CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
Policy CD-6.8	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest and by fostering active uses and avoiding prominence of vehicular parking at the street level.
Policy CD-6.9	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
Policy CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
Villages Urban Design	
Policy CD-7.3	Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with any applicable design policies pertaining to the proposed use. Review proposed mixed-use projects that include residential units for consistency with the Design Policies for Urban Villages. Following adoption of an Urban Village Plan, review new development for consistency with design policies included within the Urban Village Plan as well as for consistency with any other applicable design policies.
Attractive Gateways	
Policy CD-10.2	Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José.
Policy CD-10.3	Require that development visible from freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) is designed to preserve and enhance attractive natural and man-made vistas.

General Plan Policies - Aesthetics	
Community Empowerment	
Policy VN-2.3	Ensure that community members have the opportunity to provide input on the design of public and private development within their community.

4.1.1.2 Existing Conditions

Project Site

The 0.86-acre project site is located at 292 Stockton Avenue in Downtown San José. The site is flat and undeveloped, and currently serves as a parking lot. There are no mature trees on the project site. The Santa Cruz Mountains are not visible from the project site and the project would be only be visible from the immediate surrounding streets including Stockton Avenue and West Julian Street.

Surrounding Area

The project site is located in an area developed with a mix of older commercial and light industrial buildings. The project site is surrounded by railroad tracks and a large parking lot which serves the SAP Center to the northeast. Single-story commercial and industrial uses are adjacent to the property to the southeast with facades comprised of stucco and flat roofs. To the southwest, the project site is bounded by Stockton Avenue followed by one-story, commercial uses with façades comprised of stucco and flat roofs. To the northwest, the project site is adjacent to the West Julian Street auto and pedestrian underpass that traverses the Peninsula Corridor Joint Powers Board railroad right-of-way and Julian Street Bridge. A two-story commercial use was located to the northwest beyond the intersection with facades comprised of stucco, wood-siding and tile and is currently under construction for a seven-story mixed use building with residences and ground floor retail. A large surface parking lot for the PG&E service center is located northwest of the site.

Close-range views of the site are from the immediate surroundings streets, Stockton Avenue and West Julian Street. Mid-range views of the project site could be visible from State Route (SR) 87 which is located 0.4-mile east of the site and is an above-grade, six-lane freeway; however, intervening vegetation and urban development currently block such views. Views of the project site and area are shown in Photos 1-6.

Scenic Views and Resources

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is flat and located in Downtown San José, surrounded by urban development. Prominent views of the mountains are limited since buildings, trees, and infrastructure (e.g., utility lines) obscure viewpoints. The project area is developed and no natural scenic resources such as rock outcroppings are present on the site or in the project area. Existing Downtown landmarks (which are a part of the Downtown skyline) such as the historic Bank of America Building, De Anza Hotel, Fairmont Hotel, San José City Hall and San José State University Campus, are not visible from the project site or its vicinity, due to their distance from the site.



Photo 1: View of project site frontage along Stockton Avenue facing north.

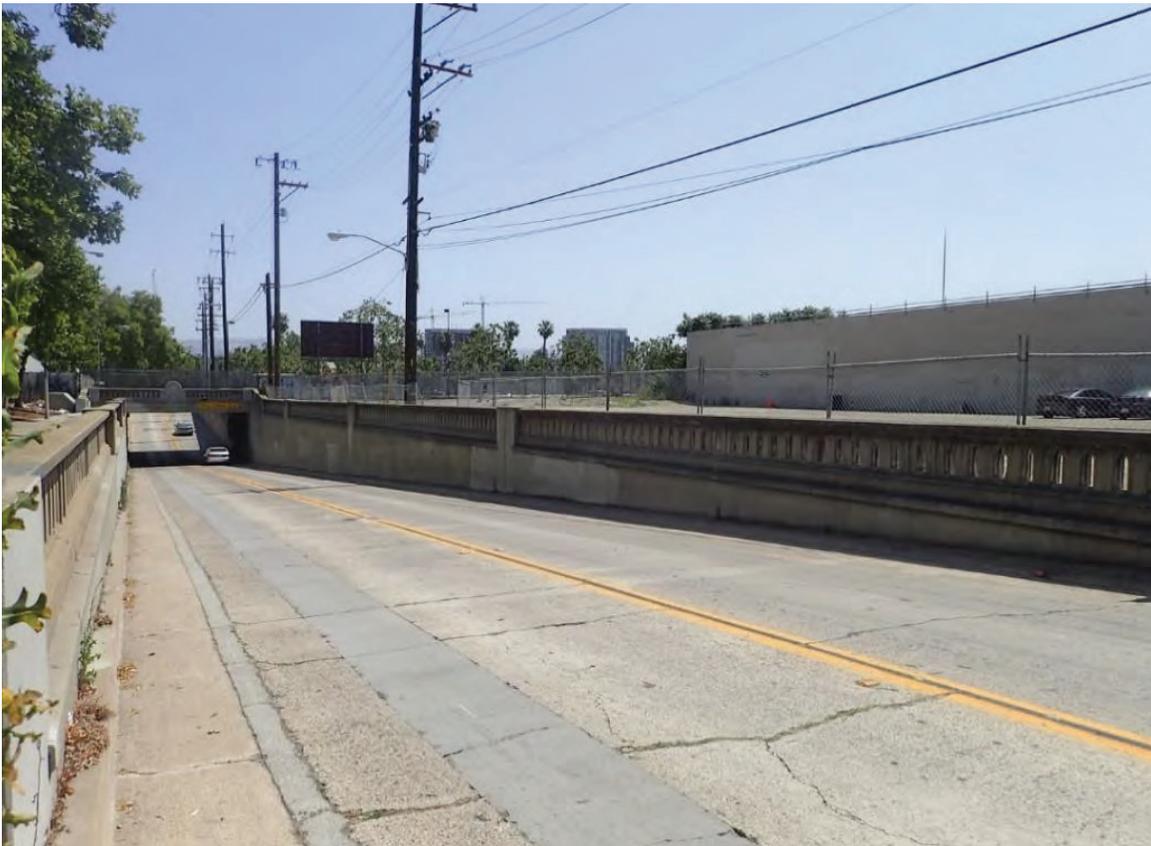


Photo 2: View of the West Julian Street Underpass to the west of the project site, facing east.

PHOTOS 1 & 2

Photo 2 Source: Archives & Architecture.



Photo 3: View of the project site frontage along the south side of the West Julian Street Underpass, facing northeast.



Photo 4: View of the project site from the West Julian Street intersection facing northeast.

PHOTOS 3 & 4

Photo 3 Source: Archives & Architecture.



Photo 5: View from the northern side of the West Julian Street Underpass with the Caltrain Corridor to the east.



Photo 6: View of the project site and adjacent commercial building on Stockton Avenue looking southeast.

PHOTOS 5 & 6

Scenic Corridors

The project site is not located along a State-designated scenic highway. The nearest State-designated highway is SR 9, approximately eight miles southwest of the site (at the SR 17 interchange). The segment of Bird Avenue over I-280 in the Downtown area is located roughly 0.5-mile southeast of the project site.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) 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"/>
2) 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"/>
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views ⁴ of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

The Downtown Strategy 2040 and DSAP FEIRs concluded that with the implementation of urban design concepts, strategies, actions and guidelines to preserve and enhance scenic vistas and resources, and visual character and quality of the area listed in the EIR, development under the

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

Downtown Strategy 2040 and DSAP would not result in a significant impacts to scenic vistas, resources or visual character. Implementation of the urban design concepts and guidelines in the Downtown Strategy 2040 FEIR and DSAP Design Guidelines would result in a less than significant light and glare impacts.

1) Would the project have a substantial adverse effect on a scenic vista? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is not located along a State scenic highway or designated rural scenic corridor. Views of the project site are limited to the immediate area because of the level terrain in the project area. The nine-story hotel and condominiums project, which would be seen by drivers on the elevated segment of SR 87, would not obstruct larger views of the Santa Cruz Mountains (to the southwest) that are in view of drivers on this freeway segment. Since key Downtown landmarks are to the east of the SR 87 Urban Throughway and the proposed development is west of SR 87, the proposed project would not block views of the Downtown skyline (i.e., Downtown landmarks). Due to the distance, surrounding landscaping, and urban development, views from other City-designated Urban Throughways or Gateways would be limited. For these reasons, the proposed project would not substantially block scenic views.

Redevelopment of this site, therefore, would not have a significant adverse effect on a scenic vista or damage scenic resources within a State scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

2) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project is not located adjacent to a State scenic highway or City-designated scenic corridor. There are currently no trees or other scenic resources on the property. Trees would be planted on the perimeter of the site. Landscaped shrubs and ground covers including heavenly bamboo, sprenger asparagus fern, black mondo grass, and star jasmine would also be planted throughout the property. The project would not damage any scenic resource and proposes landscaping consistent with City policies. **[Same Impact as Approved Project (Less than Significant Impact)]**

3) Would the project, in nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently undeveloped and serves as a parking lot. The project proposes a Conventional Rezoning to the DC Downtown Primary Commercial Zoning District. The proposed development would conform to all applicable zoning standards and design guidelines including the Diridon Station Area Plan. Construction of a 303-room, nine-story hotel with 19 residential condominiums located on the upper two stories would result in a visual change; however, the proposed project is consistent with the scale and type of development that has occurred within the

area surrounding Diridon Station and envisioned in the DSAP and Downtown Strategy 2040. As discussed in the Downtown Strategy 2040 FEIR, the Downtown Strategy seeks to facilitate the redevelopment of underutilized properties, many of which contain parking lots in degraded conditions, to a higher density hotel/residential development in an urban environment.

The proposed project is consistent with most of the Downtown Strategy policies (e.g., amenities such as lighting, plantings, and paving for pedestrian ways; definition of streets and sidewalks by their placement along the lower floors of buildings against the street edge; appropriate size and scale of open spaces). The proposed project, overall, would not result in a substantial adverse effect on the visual character of the area. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 4) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

As discussed in the Downtown Strategy 2040 FEIR, all projects within the Downtown Strategy 2040 plan area are exempt from the City Council's adopted Private Outdoor Lighting Policy 4-3 and specific requirements of the Lighting Policy 4-2 related to the use of low pressure sodium lighting. Development will also be subject to the lighting standards of the Downtown Design Guidelines and Standards which address light pollution, glare, and shielding.

The project site and surrounding area are completely developed and include existing sources of light and glare (e.g., windows, signs, headlights, streetlights, porch lights, and security lights). All lighting proposed by the project would be consistent with the policies, guidelines, and standards described above. For these reasons, the proposed project would not substantially increase light and glare levels in the project area or otherwise result in a significant light and glare impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Setting*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.⁵

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.⁶

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.⁷ Programs such as Cal Fire's Fire and Resource Assessment Program (FRAP) and are used to identify whether forest land, timberland, or timberland production areas that could be effected are located on or adjacent to a project site.⁸

The California Department of Conservation manages the Farmland Mapping and Monitoring Program to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality, and the highest quality land is designated as *Prime Farmland*. The project site is not designated as *Prime Farmland* or other farmland and is not subject of a Williamson Act contract.⁹ The project site is designated as *Urban*

⁵ California Department of Conservation. "Farmland Mapping and Monitoring Program".

<http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx>.

⁶ California Department of Conservation. "Williamson Act". <http://www.conservation.ca.gov/dlrp/lca>.

⁷ *Forest land* is land that can support 10 percent native tree cover and allows for management of one or more forest resources, including timber, fish, wildlife, and biodiversity (California Public Resources Code Section 12220(g)); *Timberland* is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing a crop of trees used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and *Timberland Production* is land devoted to and used for growing and harvesting timber and other compatible uses (Government Code Section 51104(g)).

⁸ Cal Fire. "FRAP". <http://frap.fire.ca.gov/>

⁹ 1) Santa Clara County. *Santa Clara County Important Farmland Map*. 2012. 2) Santa Clara County. *Santa Clara County Williamson Act Map*. 2013/2014

and Built-Up Land. Common examples of this land type include residential, industrial, commercial, and institutional facilities. The project site does not meet the definition of forest land or timberland.¹⁰

4.2.1.2 Existing Conditions

The project site is currently undeveloped and located within the boundaries of the Diridon Station Area Plan. The project site has a General Plan land use designation of Urban Village and is zoned *HI* – *Heavy Industrial*.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) 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"/>
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

¹⁰ According to California Public Resources Code Section 12220(g), Forest Land is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. According to California Public Resources Code Section 4526, “Timberland” means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees.

-
- 1) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? **[Same Impact as Approved Project (No Impact)]**
-

As discussed in *Section 4.2.1.1* above, the project site is not designated as farmland or used for agricultural purposes. For these reasons, the proposed project would not result in any significant impacts to agricultural resources. **[Same Impact as Approved Project (No Impact)]**

-
- 2) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract? **[Same Impact as Approved Project (No Impact)]**
-

As stated in Impact 1) above, the project site is not designated as farmland or used for agricultural purposes and is not under a Williamson Act contract. **[Same Impact as Approved Project (No Impact)]**

-
- 3) Would the project conflict with existing zoning for, or cause rezoning of, forestland (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? **[Same Impact as Approved Project (No Impact)]**
-

As discussed in *Section 4.2.1.2* above, the project site is in a developed, urban area and is not zoned forest land or timberland. **[Same Impact as Approved Project (No Impact)]**

-
- 4) Would the project result in the loss of forest land or conversion of forest land to non-forest use? **[Same Impact as Approved Project (No Impact)]**
-

As stated in Impact 3) above, the project is not zoned forest land. **[Same Impact as Approved Project (No Impact)]**

-
- 5) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? **[Same Impact as Approved Project (No Impact)]**
-

As stated in Impact 1) and Impact 4), above, the project site is not designated as farmland or used for agricultural or forestry purposes. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based, in part, on a Toxic Air Contaminants Assessment prepared by *Illingworth & Rodkin, Inc.* in February 2019. A copy of this assessment is attached as Appendix A to this Initial Study.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

Federal and state agencies regulate air quality in the San Francisco Bay Area Air Basin, within which the proposed project is located. At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants), including particulate matter (PM), ground-level ozone (O₃), carbon monoxide (CO), sulfur oxides, nitrogen oxides (NO_x), and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs are found in ambient air, especially in urban areas, and are released by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).¹¹

¹¹ CARB. "Overview: Diesel Exhaust and Health". Accessed April 16, 2018. <https://www.arb.ca.gov/research/diesel/diesel-health.htm>.

Fine Particulate Matter (PM_{2.5}) is a TAC composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), PM_{2.5} can lodge deeply into the lungs. According to BAAQMD, PM_{2.5} is the air pollutant most harmful to the health of Bay Area residents. Sources of PM_{2.5} include gasoline stations, dry cleaners, diesel vehicles, and diesel backup generators.

Local risks associated with TACs and PM_{2.5} are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

2017 Clean Air Plan

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

City of San José

Envision San José 2040 General Plan

Various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality	
Air Pollutant Emission Reduction Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

¹² BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017. <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>.

General Plan Policies - Air Quality	
Toxic Air Contaminants Policies	
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Objectionable Odor Policies	
Policy MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
Construction Air Emission Minimization Policies	
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.

4.3.1.2 Existing Conditions

Climate and Topography

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

Regional and Local Criteria Pollutants

As required by the Federal Clean Air Act and the California Clean Air Act, ambient air quality standards have been established for ozone (O₃), particulate matter (PM₁₀ and PM_{2.5}), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and lead. These are considered “criteria pollutants” by the U.S. EPA and CARB. California’s standards for criteria pollutants are the same or more stringent than the national standards. Based on air quality monitoring data, CARB is required to designate areas that do not meet the national or state ambient air quality standards as “non-attainment areas”. The Bay Area does not meet state or federal ambient air quality standards for ground level ozone, or state standards for PM₁₀ and PM_{2.5}. The region is considered attainment or unclassified for all other pollutants.

Carbon monoxide is a local pollutant (i.e., high concentrations are normally only found very near sources). The major source of carbon monoxide—a colorless, odorless, poisonous gas—is automobile traffic. Elevated concentrations, therefore, are usually only found near areas of high traffic volumes.

Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). TACs tend to be localized and are found in relatively low concentrations in ambient air, however, exposure to low concentrations over long periods can result in adverse chronic health effects. Diesel exhaust is a predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

Fine Particulate Matter (PM_{2.5}) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to PM_{2.5} can cause a wide range of health effects. Common stationary sources of TACs and PM_{2.5} include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common source is motor vehicles on roadways and freeways.

Sensitive Receptors

There are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 14, adults over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elderly care facilities, elementary schools, and parks. The closest sensitive receptors to the project site are residences west, south, and northeast of the project site.

Odors

Odors are generally regarded as an annoyance rather than a health hazard. The ability to detect odors varies considerably among the population, and people may have different reactions to the same odor.

The BAAQMD CEQA Guidelines provide a list of recommended odor screening distances for specific odor-generating facilities.

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) 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"/>
2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Result in other emissions (such as those leading to odors or dust) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Similar to the capacity build-out evaluated in the DSAP PEIR and Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors. The Downtown Strategy 2040 FEIR did, however, identify a significant unavoidable cumulative regional air quality impact, as discussed below.

4.3.2.1 *Project-Level Significance Thresholds*

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 analysis in this Initial Study is based upon the general methodologies in the most recent BAAQMD *CEQA Air Quality Guidelines* and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2017 *BAAQMD CEQA Air Quality Guidelines*, as shown in Table 4.3-1. BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs because chronic exposure to diesel emissions can cause adverse health effects. A review of the project area indicates SR 82 (The Alameda), Stockton Avenue, and West Julian Street are within 1,000 feet of the site and could adversely affect new residences. The northeastern project site boundary is adjacent to rail lines used by Caltrain and Amtrak for passenger rail service and a Union Pacific Railroad (UPRR) rail line used for freight service which could also adversely affect new residents because of diesel emissions. Lastly, there are

three listed stationary sources of air pollution within 1,000 feet of the project site including a generator and two auto-body shops.

Table 4.3-1: Project-Level Significance Thresholds			
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})	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hr average)	20.0 ppm (1-hr average)
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] 	
Accidental Release of Acutely Hazardous Materials	None	Storage or use of acutely hazardous materials locating near receptors or new receptors locating near stored or used acutely hazardous materials considered significant	
Odors	None	5 confirmed complaints per year averaged over three years	

Note: μ/m³ = micrograms per cubic meter.

1) Would the project conflict with or obstruct implementation of the applicable air quality plan? [**Same Impact as Approved Project (Less Than Significant Impact)**]

Determining consistency with the BAAQMD 2017 Clean Air Plan: Spare the Air, Cool the Climate (2017 CAP) involves assessing whether applicable control measures contained in the 2017 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures,

and Energy and Climate Measures. Applicable control measures and the consistency of the project with them are summarized in Table 4.3-2, below.

The project supports the primary goals of the CAP in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that provides users of the site with access to existing transit and services which could reduce vehicle trips. As summarized in Table 4.3-2, the proposed project includes transportation and energy control measures and is generally consistent with the CAP’s control measures. The project would not hinder implementation of the CAP control measures and would not conflict with or obstruct implementation of the 2017 CAP. The project by itself, therefore, would not result in a significant impact related to consistency with the 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
<i>Transportation Control Measures</i>		
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project site is located in Downtown San José, near jobs and services and is served by existing pedestrian, bicycle, and transit facilities. The project would replace sidewalks along its street frontages and is located approximately 0.35 mile from the Diridon Transit Station. Bikes lanes are provided on Stockton Avenue and west of the site on Julian Street.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The project is consistent with the existing General Plan land use designation and proposes infill residential uses on underutilized land. The project area is served by existing transit and bicycle and pedestrian facilities and the project encourages bicycle and pedestrian modes of travel by providing bicycle parking and implementing Transportation Demand Management (TDM) measures in conformance with Section 20.70.330 of the Zoning Ordinance.
Electric vehicles	Accelerate the widespread adoption of electric vehicles	The proposed hotel and residential project would provide preferential parking for electric or alternatively fueled vehicles and electric vehicle charging stations.
<i>Energy and Climate Measures</i>		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The project would be constructed in conformance with the City’s Private Sector Green Building Policy, which requires that the project achieve LEED Certification. The project proposes a high-density residential and commercial building in Downtown San José. The project site is an infill location near existing jobs,

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
		services, and transit which provides an opportunity for reduced vehicle miles and trips.
<i>Building Measures</i>		
Urban Heat Island Mitigation	Mitigate the “urban heat island” effect by promoting the implementation of cool roofing, cool paving, and other strategies.	<p>The project does not propose the use of cool roofing or paving. However, the proposed building includes an integrated level of parking spaces, which reduces the need for additional offsite parking that would add heat absorbing surfaces to the surrounding environment.</p> <p>The project would include TDM measures that would encourage future residents taking alternative modes of transportation (transit, bicycle, and car-share), which would reduce the number of motor vehicles used by the site and the anthropogenic heat the vehicles would emit.</p>
<i>Natural and Working Lands Measures</i>		
Shade and Tree Planting	Promote voluntary approaches to reduce urban heat islands by increasing shading in urban and suburban communities via planting of low volatile organ compound (VOC) emitting trees.	The project would plant trees and other landscaping around the periphery and in the open space areas of the project site.
<i>Waste Management Measures</i>		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City’s Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

-
- 2) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? **[Same Impact as Approved Project (Significant Unavoidable Impact)]**
-

The proposed project, considered individually with 303 hotel rooms and 19 residential dwelling units, would not exceed the BAAQMD screening thresholds requiring the evaluation of operational and construction criteria pollutants which are 489 rooms and 554 rooms, respectively, for a hotel, and 511 dwelling units and 252 dwelling units, respectively, for a condominium building. The project is, however, part of the planned growth in the Downtown area and would contribute to the significant operational emissions forecast from buildout of the full development program evaluated in the Downtown Strategy 2040 FEIR, which was found to result in significant and unavoidable regional criteria pollutants for which the region is non-attainment. To reduce emissions associated with vehicle travel, future development within the downtown area would be required to implement a TDM plan, consistent with the Downtown Strategy 2040 FEIR. With implementation of the TDM plan, the project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR.

In combination, the contribution of condominiums and hotel rooms to the Downtown would not result in health risks related to the criteria pollutant emissions of the larger Downtown Strategy 2040. The project was considered in the impact discussion for regional criteria pollutants and their associated health effects in the Downtown Strategy 2040. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

-
- 3) Would the project expose sensitive receptors to substantial pollutant concentrations? **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
-

Operational Impacts

The proposed hotel and condominium project would be located within the DSAP area. An emergency generator with a 500-kilowatt, 835 horsepower diesel engine is proposed on the first level of the below-grade garage. The generator would only operate for testing and maintenance purposes and to generate electricity in the event of an outage. The vents and exhaust would be located on the east side of the building near the railroad tracks. The closest residential receptor would be located approximately 300 feet east of the vents and exhaust position. The construction maximally exposed individual (MEI) would be located approximately 350 feet south of the project site.

BAAQMD allows under normal conditions a maximum limit of 50 hours per year of non-emergency operation. During testing periods, the engine would typically be run for less than one hour per day. The diesel engine would be subject to CARB's Stationary Diesel Airborne Toxics Control Measure (ATCM) and require permits from the BAAQMD, since it will be equipped with an engine larger than 50 hp. As part of the BAAQMD permit requirements for toxics screening analysis, the engine emissions would have to meet Best Available Control Technology for Toxics (TBACT) and pass the toxic risk screening level of less than ten in a million.

Emissions from the testing and maintenance of the proposed generator engine were calculated for a 500-kilowatt or 835-horsepower diesel engine. Assuming 50 hours of operation for testing and maintenance purposes, exhaust PM₁₀ and PM_{2.5} emissions would be 3.36 pounds annually. Cancer risk and PM_{2.5} concentrations from a diesel generator of this size were modeled using BAAQMD's Risk and Hazards Emissions Screening Calculator. The maximum modeled annual average DPM and PM_{2.5} concentrations at the closest residential receptor was 0.004 micrograms/cubic meter (µg/m³) for generator operation. The maximum estimated cancer risks and hazard index (for non-cancer health impacts resulting from health impacts from exposure to toxic substances) would be 3.36 in one million and less than 0.01, respectively. These maximum PM_{2.5} concentrations, increased cancer risks, and hazard index would not exceed BAAQMD significance thresholds.

Construction Impacts

Fugitive Dust Emissions

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when underlying soils are exposed to the atmosphere. Construction activities would increase dustfall and locally elevated levels of PM₁₀ downwind. Nearby land uses, particularly sensitive receptors to the northeast, south, and west of the site, could be affected by dust generated during construction activities. As described below, the proposed project includes measures to reduce this impact to a less than significant level.

Standard Permit Conditions

Consistent with the requirements for future development under the Downtown Strategy 2040 and DSAP, the project includes the following measures required under General Plan Policy MS-13.1 during all phases of construction on the project site to reduce dust emissions to a less than significant level:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control

measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. 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.

The project includes the measures listed above as a condition of approval. These measures would be placed on project plan documents prior to issuance of any grading or building permits for the project. Implementation of these measures would ensure that construction dust emissions would not result in a significant impact.

Construction Toxic Air Contaminants

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The MEI receptor to DPM and PM_{2.5} concentrations during project construction would be on the third floor of the future mixed-use development located 350 feet southeast of the project site.

As shown in Table 4.3-1 above, under the BAAQMD CEQA Air Quality Guidelines, an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the MEI would result in a significant impact. The BAAQMD CEQA Air Quality Guidelines consider exposure to annual PM_{2.5} concentrations that exceed 0.3 µg/m³ from a single source to be significant. Cancer risks that exceed 100 cases per million and annual PM_{2.5} concentrations that exceed 0.8 µg/m³ from cumulative sources are also significant. The BAAQMD significance threshold for non-cancer hazards is 1.0 hazard index.

The community health risk assessment prepared for the project included an evaluation of potential health effects to sensitive receptors at the nearby residences from construction emissions of PM_{2.5}. Results of this assessment indicate that the maximum concentration of PM_{2.5} during construction (which is based on combined exhaust and fugitive dust emissions) would be 0.41 µg/m³, which exceeds the BAAQMD 0.3 µg/m³ significance threshold.

Construction residential infant cancer risk would be 54.5 in one million (which is above the BAAQMD 10 excess cancer cases per million significance threshold) and residential adult cancer risk would be 1.0 in one million during construction activities. In accordance with GP Policy MS-13.1, the project would include construction equipment exhaust control measures to reduce construction TAC impacts on sensitive receptors. Consistent with the Downtown Strategy 2040 and the DSAP FEIRs, this project-specific mitigation measure addresses the recommended measure to use equipment that meets CARB's most recent certification standards for off-road heavy duty diesel engines to mitigate construction TAC emissions. The mitigation measure below is based on available construction information.

Impact AIR-1: Exhaust from diesel powered construction equipment would exceed the regulatory toxic air contaminant threshold and predicted cancer risk at the nearest sensitive receptors. **(Significant Impact)**

Mitigation Measures

In addition to the Standard Permit Conditions addressing construction dust and particulate matter, the project shall implement the following mitigation measure to reduce the impacts of construction PM_{2.5} emissions on sensitive receptors.

MM AIR-1.1: Prior to issuance of a grading permit, the project applicant shall develop a plan demonstrating that the off-road equipment used to construct the project would achieve a fleet-wide average 82 percent reduction in diesel particulate matter (DPM) emissions. Measures that can be implemented to achieve this reduction include, but are not limited to, the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (U.S. EPA) particulate matter emissions standards for Tier 4 engines or equivalent.
- Alternatively, the use of equipment that meets U.S. EPA Tier 3 standards and includes CARB-certified Level 3 Diesel Particulate Filters¹⁹ would also meet this requirement. Alternatively, the use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to less than significant.
- The proposed plan to achieve a fleet-wide average 82 percent reduction in diesel particulate matter (DPM) emissions shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading permits.

Implementation of the above standard permit conditions to reduce dust and exhaust emissions would reduce exhaust emissions by 5 percent and fugitive dust emissions by over 50 percent.

Implementation of the above mitigation measure MM AIR-3.1, specifically the use of equipment that meets U.S. EPA particulate matter emissions standards for Tier 4 engines, would further reduce on-site diesel exhaust emissions by over 93 percent. Assuming the use of Tier 3 equipment that includes CARB-certified Level 3 Diesel Particulate filters, diesel exhaust emissions would be reduced by 89 percent. The combination of the Standard Permit Conditions and mitigation measures would reduce exhaust and fugitive dust emission and correspondingly reduce infant cancer risks of the MEI to 3.8 to 6.0 chances per million (which would be below the BAAQMD thresholds of greater than 10 per one million for cancer risk). The construction emissions of the proposed project would, therefore, have a less than significant impact on nearby sensitive receptors.

Cumulative Impact on Sensitive Receptors during Construction

In addition to construction of the proposed project, the stationary and roadway sources (shown in Tables 4.3-3 below) were considered to assess the combined effects of the cumulative TAC sources on nearby sensitive receptors. Based on the results shown in Table 4.3-3 below, the cumulative impact on the MEI during construction, from these sources combined would be less than significant.

Table 4.3-3: Combined Sources Impacts on Sensitive Receptors During Construction			
Source	Maximum Cancer Risk (per million)	PM_{2.5} Concentration (µg/m³)	Acute and Chronic Hazard (HI)
Proposed Project Construction			
Unmitigated	54.5	0.41	0.05
Mitigated	3.8	0.06	<0.01
<i>BAAQMD Single-Source Threshold</i>	<i>>10.0</i>	<i>>0.3</i>	<i>>0.1</i>
<i>Significant?</i>			
Unmitigated	<i>Yes</i>	<i>Yes</i>	No
Mitigated	No	No	No
Roadway/Railroad Sources			
SR 82 (The Alameda) at 450 feet	3.5	0.02	<0.01
Stockton Avenue at 230 feet	2.0	0.07	<0.01
West Julian Street at 425 feet	1.0	0.04	<0.01
Railroad line at 160 feet	24.7*	0.05	<0.01
Emergency Generator	2.4	<0.01	<0.01
Stationary Sources			
Generator (Plant #3100) at 1,000 feet	<0.1	<0.01	<0.01
Auto-body shop (Plant #11819) at 1,000 feet	N/A	N/A	<0.01
Auto-body shop (Plant #8417) at 270 feet	N/A	N/A	<0.01
<i>Cumulative Total</i>			
Unmitigated	<88.2	<0.61	<0.13
Mitigated	<37.5	<0.26	<0.09
<i>BAAQMD Cumulative Source Thresholds</i>	<i>100</i>	<i>0.8</i>	<i>10.0</i>
<i>Significant?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Notes: Values reported as N/A indicate that the air district either does not have the data or the emissions levels are too low to detect.			
* The railroad cancer risk at the construction MEI is significantly higher than the on-site MEI due to the construction occurring prior to the electrification of trains along the rail line. In addition, the construction MEI is located on the third level (closer to sensitive receptors) and the on-site MEI is located on the eighth level.			

[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]

-
- 4) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

No new stationary odor sources are proposed as part of the proposed project; the project would not expose existing nearby sensitive receptors to new odor sources. Operation of construction equipment could create objectionable odors, however, due to localized and temporary nature of construction-related odors, construction of the project would not generate odors that would affect a substantial number of people. The project would, therefore, not result in any new or greater impacts than were previously identified in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.3.3 Non-CEQA Effects

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

Toxic Air Contaminants

General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of measures or conditions or be located an adequate distance from sources to avoid significant risks to health and safety for future residents and users of the project. The analysis below discloses information on the project's compliance with General Plan Policy MS-11.1. As described above in *Section 4.3.2.1*, the BAAQMD CEQA Air Quality Guidelines recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways [10,000 average annual daily vehicle trips (AADT) or more], and/or stationary permitted sources of TACs. A community health risk assessment was completed for the project site to identify TAC emission sources within 1,000 feet of the site and their impacts on the proposed project.

Roadway Analysis

Stockton Avenue, a local roadway immediately to the south of the project site, has an AADT of approximately 11,465. BAAQMD's roadway screening analysis tool was used to assess potential excess cancer risk and annual PM_{2.5} concentrations from Stockton Avenue. This tool allows predictions of cancer risk, non-cancer hazards and PM_{2.5} concentrations based on the distance and orientation of the roadway. Using the BAAQMD Roadway Screening Analysis Calculator for a north-south directional roadway, the estimated cancer risk at the closest project residents on the 8th floor would be 3.8 per million, PM_{2.5} concentration would be 0.13 µg/m³, and the chronic or acute HI for the roadway would be less than 0.01. The predicted impacts from Stockton Avenue do not exceed the BAAQMD significance thresholds.

West Julian Street, a local roadway immediately west of the project site, has an AADT of approximately 11,865. Using the BAAQMD Roadway Screening Analysis Calculator for an east-west directional roadway, the estimated cancer risk at the closest project receptors on the 8th floor would be 3.2 per million, PM_{2.5} concentration would be 0.12 µg/m³, and the chronic or acute HI for

the roadway would be less than 0.01. The predicted impacts from West Julian Street do not exceed the BAAQMD significance thresholds.

Highway TAC Analysis

SR 82 is a highway within 1,000 feet of the site which has an AADT in excess of 10,000. Refined modeling was completed to evaluate potential cancer risks and PM_{2.5} concentrations from traffic on SR 82. The refined analysis included developing traffic emissions for the traffic volume and mix of vehicle types on SR 82. These estimated emissions were used as input to an atmospheric dispersion model for roadways, to estimate TAC and PM_{2.5} concentrations in the residential section of the proposed project.

SR 82 is about 630 feet south of the project site. The maximum increased lifetime cancer risk, annual PM_{2.5} concentration, and non-cancer health risk for new residents at the project site are 3.2 chances per million, 0.02 µg/m³, and 1.0 for HI, respectively. The estimated cancer risk, PM_{2.5} concentration, and non-cancer risk to future project site residents are below their respective BAAQMD significance thresholds.

Railroad Community Risk Analysis

As mentioned earlier, the project site is located near rail lines used by Caltrain and Amtrak for passenger rail service and a UPRR rail line used for freight service. The northeastern project site boundary is about 12 feet from the nearest rail line. Trains traveling on these lines generate TAC and PM_{2.5} emissions from diesel locomotives. Due to the proximity of the rail line to the proposed project, potential community risks to future project residents from DPM emissions from diesel locomotive engines were evaluated.

Passenger rail services at this location include diesel-fueled trains for Caltrain, Altamont Commuter Express (ACE), Amtrak-Capitol Corridor, and the Amtrak-Coast Starlight. Based on the current Caltrain schedule, there are 92 trains passing the project site during the weekdays, 32 trains during the weekend, and four trains that only run on Saturday. The ACE operates eight trains daily between Stockton and San José with service terminating at the Diridon Station, south of the project site. The Amtrak-Capitol Corridor, which provides daily service between Sacramento/Auburn and San José, has 14 trains along these rail lines.

In addition to the passenger trains, there are up to 10 daily freight trains that use the UPRR tracks east of the Caltrain tracks. As part of the future Caltrain Peninsula Corridor Electrification Project, which would electrify most trains traveling from San Francisco to San José, Caltrain would be able to increase the number of trains during peak periods to accommodate service demand.

For this evaluation, with Caltrain electrification, it was assumed that starting in 2021 through 2025, there would be 24 daily weekday trips and four daily weekend trips with four additional trips on Saturdays using trains with diesel locomotives. Based on the above assumption, health risk impacts at the project site to the eighth floor future residents would result in a cancer risk of 3.0 cases in one million, 0.01 µg/m³ PM_{2.5} concentration, and a less than 0.01 HI, which would be below BAAQMD thresholds of significance to future project site residents.

Stationary TAC Analysis

Permitted stationary sources of air pollution within 1,000 feet of the project site were identified using BAAQMD's Stationary Source Risk & Hazard Analysis Tools. Plant #3100, which contains emergency diesel generators, is approximately 690 feet west of the site and was identified as a stationary TAC source. Based on BAAQMD's screening tools, this facility would result in an adjusted lifetime cancer risk of 0.1 in one million, less than 0.01 $\mu\text{g}/\text{m}^3$ $\text{PM}_{2.5}$ concentration, and a less than 0.01 HI, which would be below BAAQMD thresholds of significance to future project site residents.

Plant #11819 and #8417 are auto-body coating facilities and are located 615 feet northwest and 580 feet southeast of the project site, respectively. Both facilities would result in an unreported cancer risk and annual $\text{PM}_{2.5}$ concentration and a less than 0.01 HI, which would be below BAAQMD thresholds of significance to future project site residents.¹³

Cumulative TAC Risk

Cumulative TAC impacts to project sensitive receptors were evaluated by adding the cancer risk, $\text{PM}_{2.5}$ concentrations, and HI from each TAC source within 1,000 feet of the project site and comparing those to the BAAQMD CEQA Air Quality Guidelines significance thresholds for cumulative sources. Predicted cumulative community risk is as follows: 13.3 cancer risk cases per million, less than 0.29 $\mu\text{g}/\text{m}^3$ annual $\text{PM}_{2.5}$, and less than 0.07 acute or chronic HI. These levels are below the BAAQMD CEQA Air Quality Guidelines significance thresholds of 100 per million cancer risk, 0.8 $\mu\text{g}/\text{m}^3$ annual $\text{PM}_{2.5}$, and 10.0 HI.

Table 4.3-4, below, summarizes the TAC exposure risks to future residents of the site.

Table 4.3-4: Local Community Risks and Hazards from TAC Sources			
Source	Cancer Risk (at project site)	$\text{PM}_{2.5}$	Non-Cancer Hazard Index
SR 82 (The Alameda)	3.2	0.2	<0.01
Stockton Avenue at 85 feet	3.8	0.13	<0.01
West Julian Street at 80 feet	3.2	0.12	<0.01
Railroad line at 83 feet	3.0	0.01	<0.01
Generator (Plant #3100) at 690 feet	0.1	<0.01	<0.01
Auto-body shop (Plant #11819) at 615 feet	N/A	N/A	<0.01
Auto-body shop (Plant 8417) at 580 feet	N/A	N/A	<0.01
Total	13.3	<0.29	<0.07

¹³ The air district does not have or does not report the cancer risk and $\text{PM}_{2.5}$ concentration of the auto-body coating facilities because the sources do not emit emissions that contribute to cancer risk and $\text{PM}_{2.5}$ or are extremely low, therefore, they are considered negligible.

Table 4.3-4: Local Community Risks and Hazards from TAC Sources			
Source	Cancer Risk (at project site)	PM_{2.5}	Non-Cancer Hazard Index
<i>BAAQMD Single-Source Threshold</i>	<i>10 in one million</i>	<i>0.3 µg/m³</i>	<i>1.0</i>
<i>Above Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>BAAQMD Cumulative Source Threshold</i>	<i>100 in one million</i>	<i>0.8 µg/m³</i>	<i>10.0</i>
<i>Above Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>

Notes: The cumulative analysis of local community risks and hazards is included in *Section 4.18.2 Cumulative Impacts*.

Residents of the project site would not be exposed to an increased lifetime cancer risk of greater than 10.0 cases per million, annual PM_{2.5} concentrations in excess of 0.3 µg/m³, or a non-cancer hazard risk of greater than 1.0 per single source. Future residents of the project site would not be exposed to substantial pollutant concentrations exceeding the thresholds of significance for TACs as analyzed in the health risk assessment prepared for the project.

Impacts of Odor Sources on the Project

General Plan Policy MS-12.2 requires new residential/hotel development projects to be located an adequate distance from facilities that are existing and potential sources of odor. According to the Downtown Strategy 2040 FEIR, there are no potential odor sources in the Central/Downtown Planning Area. The proposed residential development is, therefore, not within the screening distance of existing odor sources established by BAAQMD.

4.4 BIOLOGICAL RESOURCES

4.4.1 Environmental Setting

4.4.1.1 *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. The federal Endangered Species Act more broadly defines take to include harm of a listed species.

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

Migratory Bird and Birds of Prey Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.¹⁴ Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive 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 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.

¹⁴ U.S. Department of the Interior. M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take. <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>.

CDFW Stream/Riparian Habitat

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. The Habitat Plan was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan was 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.

City of San José

Tree Removal Ordinance

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

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

Riparian Corridor and Bird-Safe Building Policy 6-34

The City of San José's Riparian Corridor and Bird Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff, and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and birdsafe design. The general guidelines for setbacks and lighting apply to development projects

within 300 feet of riparian corridors. Bird-Safe design guidance for buildings and structures includes avoiding large areas of reflective glass, transparent building corners, up-lighting and spotlights.

Envision San José 2040 General Plan

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

General Plan Policies – Biological Resources	
Migratory Birds	
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds’ nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Urban Natural Interface	
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Community Forest	
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 affect 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.
Policy MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.

4.4.1.2 Existing Conditions

The project site is located in a developed, urban area in Downtown San José. The project site is currently vacant and used as a parking lot. No sensitive habitats, wetlands, or mature trees are on or adjacent to the project site. The project site is located approximately 0.3 mile west of the confluence of Los Gatos Creek and the Guadalupe River. Habitat in developed areas, such as the project site, are extremely low in species diversity. Species using developed habitat are predominantly urban adapted birds and animals, such as doves, squirrels, and domestic and feral cats. Rare, threatened, endangered and sensitive plants, animals and natural communities are not expected or likely to occur on the project site.

4.4.2

Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) 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"/>
5) 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"/>
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

-
- 1) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? [**Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)**]
-

Special-Status Species

The project site has been developed since as early as 1888 and is currently undeveloped. Because of the long history of development and disturbance on-site, no natural or sensitive habitats supporting endangered, threatened, or special status wildlife species occur on-site. There are no riparian, wetland, or aquatic areas on or adjacent to the site. The impact of the project on the developed habitat of the site would be less than significant due to the relatively low value of this habitat for biological resources.

Nesting Raptors and Birds

The project site does not contain trees but is adjacent to several mature street trees along Stockton Avenue and West Julian Street that may contain nesting raptors and birds. As disclosed in the Downtown Strategy 2040 and DSAP FEIRs, raptor species such as the red-tail hawk, red-shouldered hawk, and Cooper's hawk could nest in larger trees and forage in the riparian corridor and nearby open space areas of Downtown San José. There are no riparian areas on the project site. The nearest waterways to the site are the Guadalupe River and Los Gatos Creeks, approximately 0.3 mile from the site. There are no mature trees currently located on the site.

Any construction related disturbances that result in nest abandonment or other forms of harm or injury to nesting birds that occur on or near the site would be considered a significant impact. Per the Migratory Bird Treaty Act, all raptors and most bird species are protected while breeding. Therefore, pre-construction surveys for nesting raptors and other protected birds would be completed prior to any disturbances on the site that occur during the nesting season to ensure that birds are not harmed, injured, or killed as a result of a project. Mitigation for the loss of habitat would not be required as the site itself supports only low quality foraging habitat for these species due to its lack of a suitable prey base, small size, and high level of disturbance. The above previously approved EIRs addressed impacts to nesting raptors and concluded that such impacts would be significant. In compliance with General Plan Policies ER-5.1 and ER-5.2, the project shall include identified measures in the DSAP PEIR to reduce nesting raptor impacts to a less than significant level.

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

Mitigation Measures

With the implementation of the following measures disclosed in the Downtown Strategy 2040 FEIR, in conformance with the CDFW Code and provisions of the Migratory Bird Treaty Act and General

Plan Policies ER-5.1 and ER-5.2, the project would reduce impacts to nesting raptors to a less than significant level:

MM BIO-1.1: The project applicant shall schedule all construction activities, such as tree removals and grading, to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of the nesting season between September 1st and January 31st, inclusive, a qualified ornithologist shall complete pre-construction surveys to identify active raptor or other migratory birds' nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to approval of any ground disturbance activity, including issuance of any tree removal, grading, or building permit (whichever comes first), the project applicant shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Implementation of the above measure would ensure that impacts to nesting birds would not be significant. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

-
- 2) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The project site is located in Downtown San José, a developed, urban area. There are no streams, creeks, waterways or wetlands located on or adjacent to the site. The nearest waterway to the site is the Guadalupe River, located approximately 0.3 mile east of the site. Groundwater discharge from

the project site to the storm sewer would not be allowed due to the presence of contaminants (refer to *Section 4.9 Hazards and Hazardous Materials*). Therefore, redevelopment of the site would not directly impact riparian habitat or other sensitive natural communities. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 3) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? **[Less Impact Than Approved Project (No Impact)]**
-

The project is located in a developed urban area. There are no wetlands located on or adjacent to the project site. **[Less Impact than Approved Project (No Impact)]**

-
- 4) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
-

The project site is located in Downtown San José, a developed, urban area. The site does not serve as a wildlife corridor. Except for the possibility of nesting raptors or birds nesting in adjacent street trees (see above), the site does not contain a native wildlife nursery. As discussed above, mitigation measures are included in the project to reduce impacts to nesting raptors or birds to a less than significant level. For these reasons, redevelopment of the site with the proposed residential project would not interfere with the movement of native resident or migratory fish or wildlife species or impede the use of native wildlife nursery sites. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

-
- 5) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The project site does not contain any trees and therefore no trees would be removed. One street tree is located adjacent to the site on Stockton Avenue. Any street tree trimming required for the project would be subject to a permit from the City's Department of Transportation (Municipal Code Section 13.28). **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 6) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The site is designated as *Urban-Suburban* land in the SCVHP. The project will not be subject to any land cover fee given the current condition of the site and developed nature of the area. Consistent with the SCVHP, the project applicant shall implement the required Downtown Strategy 2040 measure as a Standard Permit Condition.

Standard Permit Conditions

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permit or ground disturbance. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.¹⁵

Through payment of the SCVHP fee for nitrogen deposition, as outlined in the standard permit condition above, the contribution of the project to cumulative nitrogen deposition impacts would be rendered less than cumulatively considerable.

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

¹⁵ The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

4.5 CULTURAL RESOURCES

The following discussion is based upon a Historic Resource Impact Assessment completed by *Archives & Architecture, LLC* in February 2019. A copy of this report is included in Appendix B of this Initial Study. This discussion is also based upon a series of archaeological reports completed by *Holman & Associates* from August 2018 to February 2019. Copies of the archaeological reports are on file at the City Planning, Building and Code Enforcement Department.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility follow:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
 - Criterion 1:* Association with events that have made a significant contribution to the broad patterns of history.
 - Criterion 2:* Association with the lives of persons significant in the past.
 - Criterion 3:* Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction.
 - Criterion 4:* Has yielded, or may yield, information important to prehistory or history.

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local

planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.¹⁶

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and in evaluating adverse changes to them. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The process of determining integrity is similar for both the CRHR and NRHP and uses the same seven variables or aspects to define integrity that are used to evaluate a resource’s eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

Archaeological Resources and Human Remains

Archaeological, and historical sites are protected by a number of state policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods. Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains to protect them from disturbance, vandalism, and inadvertent destruction.

Both state law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a “most likely descendant” must also be notified.

City of San José

Historic Preservation Ordinance

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

¹⁶ CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible.

The landmark designation process itself requires that findings be made that proposed landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that designation as a landmark conforms to the goals and policies of the Downtown Strategy 2040. The following factors can be considered to make those findings among other relevant factors:

1. Its character, interest or value as a part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José;
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contract, and various land use and zoning incentives.

Draft San José Downtown Historic Design Guidelines

The 2004 Draft San José Downtown Historic Design Guidelines (Guidelines) provide relevant criteria for addressing new construction adjacent to historic landmarks. The Guidelines are applicable to the project site as it is within the Downtown Core area and adjacent to the West Julian Street Underpass which is considered a Candidate City Landmark. The Guidelines identify eight contextual elements for new construction adjacent to historic resources: lot patterns; massing; façades; corner elements; rear façades; entries; exterior materials, and vehicular and pedestrian access.

Envision San José 2040 General Plan

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

General Plan Policies - Cultural Resource	
Landmarks and Districts	
Policy LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior’s Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior’s Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
Policy LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Policy LU-13.10	Ensure City public works projects (street lights, street tree plantings, sidewalk design, etc.) promote, preserve, or enhance the historic character of Historic Districts.
Policy LU-13.11	Maintain and update an inventory of historic resources in order to promote awareness of these community resources and as a tool to further their preservation. Give priority to identifying and establishing Historic Districts.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-13.20	Explore funding options and techniques to proactively conduct additional historic surveys and to maintain and update the City’s Historic Resources Inventory. As funding allows, undertake comprehensive area-wide surveys of the city to identify potential Historic Districts, Cultural Landscapes at the City’s edge, and significant buildings and/or structures, including Traditional Cultural Properties.
Historic Structures of Lesser Significance	
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.

General Plan Policies - Cultural Resource	
Policy LU-14.3	Design new development, alterations, and rehabilitation/remodels in conservation areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structures, complete non-Historic American Building Survey level of documentation, list qualifying structures on the Historic Resources Inventory, and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas
Site Development	
Policy IP-10.3	In addition to a Site Development permit, require an Historic Preservation permit for modifications to a designated Historic Landmark structure. This permit process fosters the implementation of the Historic Preservation goals and policies of this 2040 General Plan.
Archaeology	
Policy ER-9.2	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 their 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-10.1	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 archeological 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-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.1.2 *Existing Conditions*

Archaeological Resources

According to an archaeological records search completed for the project by *Holman & Associates*, known archaeological resources are adjacent to the project site. In this portion of San José, Native American sites have been identified adjacent to springs or within a half mile of the two major waterways: Coyote Creek and the Guadalupe River and their major tributaries. Isolated burials have also been identified near both sides of the Guadalupe River within this general area. The Project Area is located 0.3 mile west of the confluence of Los Gatos Creek with the Guadalupe River on part of a

large valley terrace. Based on its distance from major waterways and the presence of known resources adjacent to the site, the project has a moderate to high potential for the presence of Native American resources.

Historic-era maps for the project site were examined to identify the potential for historic archaeological resources related to the history of the property and general area. By 1891, two single-family Victorian houses facing Stockton Avenue were present on the site with two more modest single-story dwellings facing West Julian Street. All of the residences had outbuildings behind them. By 1915, the two houses facing Stockton remained, but the smaller houses facing West Julian were no longer extant. Based on the review of historical land use patterns, there is a high potential for historic archaeological deposits on the project site.

Historic Resources

Although the project site at Stockton Avenue and West Julian Street is presently vacant, it appears to have first undergone development as early as 1888. The most recent buildings were constructed in 1954 and 1969 and were demolished in 2009. The 1954 building that was located adjacent to and to the immediate east of Stockton Avenue was leased by Westinghouse Electric Corporation at that time, and the rear 1969 building was used by small industrial service companies for a few years.¹⁷

The project site is adjacent to the West Julian Street auto and pedestrian underpass that transverses the Peninsula Corridor Joint Powers Board railroad right-of-way and Julian Street bridge. The bridge, which became operational in 1935, was previously determined not to have historical significance under CEQA. However, the current evaluation performed for the proposed project by Archives and Architecture (February 2019) determined that the Julian Street Underpass should be treated as a historic resource for the purposes of the CEQA review for the project.

Historic Context

The San Francisco and San José Railroad and South Pacific Coast railroads began operation through San José during the 1860s and 1870s, and the extension of the South Pacific Coast to Los Gatos was the first rail line to extend through the area. Later, the Southern Pacific extended through this area to reach the industrial areas southwest of the downtown (and the New Almaden mines) until their mainline bypass opened in 1935. This construction project diverted both passenger and freight service that had previously crossed the downtown in the center of Fourth Street.

The construction of this bridge was part of an eight-structure project by the Southern Pacific Railroad Company and one project by the City of San José to remove or avoid grade crossings of the new mainline that bypassed the downtown. Six of these bridges are extant and in use today, with underpasses at West Julian Street (1935), West Santa Clara Street (1935), an auto viaduct at West San Carlos Street (1935), and three bridges/underpasses Delmas Street (1936) and Prevost Street (1936/1991), and Almaden Road (1936).

The design of the West Julian Street Underpass is typical of a depression-era Works Progress Administration (WPA)-era concrete structure and is readily recognizable as an historic structure by its materials use, the arcade design, and the original medallion. Character-defining features include

¹⁷ Archives & Architecture. Historical Impact Assessment. February 2019.

the unpainted concrete formwork, extensive use of sectioned concrete railings with lancet arched openings on both sides of the roadway and along both sides of the bridge, the concrete stairways, cantilevered bents, shouldered arches under the bridge that separate the roadway and walkway, and Southern Pacific emblem on both sides of the bridge. The bridge and underpass appear to have a high level of integrity to its original design and construction.

Significance Evaluation

The Julian Street Underpass was found not eligible for the National or California Registers in 2002 by the State Historic Preservation Officer. In 2013, Caltrans reconfirmed that the structure was not listed locally as a historic resource when preparing documentation for the Final EIR for the Peninsula Corridor Electrification Project.

For the purposes of the current review of the project site adjacent to the West Julian Street Underpass, the bridge and underpass structure meets the criteria for eligibility for listing on the California Register under Criteria 1 and 3, which are listed above in *Section 4.5.1.1 Regulatory Framework*. Furthermore, it is considered a Candidate City Landmark as it meets the qualitative criteria, Criteria 1, 6, and 8, under the City’s Historic Preservation Ordinance.

4.5.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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 or a structure that is an eligible City Landmark.

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

1) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5? **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

A resource is considered to be historically significant by the City of San José if it is listed or meets the criteria for listing on the National Register, California Register, or as a City Landmark on the City's Historic Resources Inventory (HRI). The West Julian Street Underpass, located adjacent to the western boundary of the project site, is considered a significant resource under Criterion 1 (association with events that have made a significant contribution to the broad patterns of history) and Criterion 3 (distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction), as determined by the historical analysis performed by *Archives & Architecture*. Additionally, the underpass is considered a Candidate City Landmark as it meets the qualitative criteria 1, 6, and 8, under the City's Historic Preservation Ordinance.

The proposed hotel and residential project was analyzed pursuant to the City's *Draft San José Downtown Historic Design Guidelines*, which includes eight different guidelines, listed below.

1. Lot Lines – The proposed project does not propose changes in lot lines.
2. Massing – The size of the proposed project does not affect the historic property line at the underpass wall.
3. Facades – There are no historic buildings or nearby façade proportions that set a pattern of historic façade design for this project.
4. Corner elements – There are no historic corner building relationships in the subarea surrounding the proposed project.
5. Rear Facades – There are no rear architectural façade features in the neighborhood subarea that need to be considered.
6. Entries – There is no pattern of historic entries in this Downtown subarea.
7. Exterior Materials - There is no historic design patterns or consistency in the neighborhood surrounding the proposed project. The proposed materials for the project are appropriately heavily differentiated from the bridge/underpass, as it is a very functional public works design, not a building. The proposed building is considered compatible with the historic exterior materials guideline.
8. Vehicular and Pedestrian Access - The historic vehicular and pedestrian access patterns are respected in the proposed design. The area adjacent to the underpass railing is shown as an open paved corridor, allowing the railing to function as historically designed, and allowing the railing to remain independent of the building envelope. The proposed building is considered compatible with this historic vehicular and pedestrian access guideline.

The proposed project would be compatible with the West Julian Street Underpass per the *Draft San José Downtown Historic Design Guidelines* and, as a result, the project would have a less than significant indirect impact to historic resources based on the proposed building design.

Potential Construction Impacts

Activities related to the construction of the new project within the immediate vicinity of the Julian Street Underpass could affect the integrity of that structure. Such activities include vibration from the operation of heavy machinery and drilling equipment staging, and storage of materials. Construction activities could damage the structure through destabilization, or physical contact, which could result in a significant impact to historic resources.

Impact CUL-1: The construction and associated vibration of the proposed project may indirectly impact the Julian Street Underpass. **(Significant Impact)**

Mitigation Measures:

Consistent with the Downtown Strategy 2040 and DSAP FEIRs, the following project-specific mitigation measures were developed to protect an existing historic resource from construction activities, including vibration.

MM CUL-1.1: Prior to final off-site improvement design, and site and off-site construction, a qualified historic architect shall undertake an existing conditions visual study of the Julian Street Underpass as directed by the City, to establish the baseline condition of the structure prior to construction of both on-site and off-site improvements. The study shall include would be the preparation of preconstruction documentation of portions of the West Julian Street Underpass considered to be at risk from the construction of the project, including a review of off-site improvements necessary to implement the project. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics that conveys its historic significance. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer.

MM CUL-1.2: A Historic Resources Protection Plan shall be prepared by a qualified historic architect who meets the Secretary of the Interior's Professional Qualifications Standards to protect the Julian Street Underpass from indirect impacts during construction activities (i.e., due to damage from operation of construction equipment). The project applicant shall, prior to any construction activities including any ground-disturbing work, have a plan prepared that establishes procedures to protect this resource. The project applicant shall ensure the contractor follows this plan while working at or near this historic resource. At a minimum, the plan shall include:

- Guidelines for operation of construction equipment at or adjacent to the historic resource;
- Requirements for monitoring and documenting compliance with the plan. And education/training of construction workers about the significance of the historical resources around which they would be working.

MM CUL-1.3: Utilizing the visual study recommended in MM CUL-1.1 above, the Historic Architect shall make periodic site visits to monitor the condition of the historic resources identified in the Historical Resources Protection Plan, including monitoring of any instruments such as crack gauges if necessary, or reviewing vibration monitoring required by other construction monitoring processes required under the City’s permit processes.

The Historic Architect shall consult with a structural engineer if any problems with character-defining features of the West Julian Street Underpass are discovered. If, in the opinion of the Historic Architect, substantial adverse impacts related to construction activities are found during construction, the Historic Architect shall so inform the project applicant or applicant’s designated representative responsible for construction activities. The project sponsor shall then respond accordingly to the Historic Architect’s recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. The monitoring team shall prepare site visit reports for submittal to the City’s Planning Division monthly.

MM CUL-1.4: In the event of damage to the West Julian Street Underpass during construction, repair work must comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties to restore the character-defining features of the resource in a way that does not affect the eligibility of the structure as a historic resource.

With implementation of the mitigation measures above, the potentially significant impact to the West Julian Street Underpass during construction would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation Incorporated)]**

2) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

According to an archaeological records search completed for the project by *Holman & Associates*, known archaeological resources are located adjacent to the project site that would be disturbed by project construction. The proposed project would require excavation to approximately 43 feet below the ground surface for the below-grade parking garage, which may result in the loss of as yet unknown subsurface resources on the project site. The project site would require remediation to dispose of the upper two feet of contaminated soil prior to issuance of a grading or building permit (refer to *Section 4.9 Hazards and Hazardous Materials*). The proposed project would include improvements to the sidewalks on both street frontages as well as connections to existing utilities in Stockton Avenue.

Impact CUL-2: Construction of the proposed project could result in significant impacts to known and potentially present archaeological and/or tribal cultural resources. **(Significant Impact)**

Mitigation Measures:

The Downtown Strategy 2040 FEIR requires development projects to implement site-specific recommendations of the archaeological resources report. Consistent with the standard measures in the Downtown Strategy 2040 FEIR, the project archaeologist has developed the following mitigation measure to be implemented during construction to ensure that archaeological resources are not damaged during construction of the project.

MM CUL-2.1: The project applicant shall implement the following mitigation program:

- A Native American and an archaeologist trained in identifying and managing historic-era and Native American resources shall monitor the remediation efforts conducted by the project engineers. The monitoring efforts would depend on the level of toxicity, the types of soils removed, and evidence from disturbance from prior development. The archaeologist and Native American monitor shall determine the duration of each party's monitoring in coordination with the remediation contract.
- If any ground disturbing activities at the project site and adjacent areas are required, such as for potholing, to locate and to remove previous utilities or connect with utilities in adjacent roadways, or other similar activities, the archaeologist and Native American monitor must be present and observing at all times.
- Mechanical presence/absence exploration for both Native American and historic-era resources shall be completed after the remediation efforts have cleared the remaining contaminated soils. The exploration work shall be conducted by qualified archaeologist(s) trained in both local prehistoric and historical archaeology. Accompanied by a local Native American monitor, mechanical trenching shall sample the parcel with careful consideration given to the potential for additional archaeological resources. To explore for the potential for archaeological resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts or until the soils and sediments are identified as reliably culturally sterile. The most sensitive areas for historical deposits would be near the former back fences that historically divided the four Stockton and West Julian houses that were present in the late 1800s and early 1900s. Exploring for historic-era features should consist of creating shallow, wide trenches down to the historic surface. If any archaeological resources or human remains are exposed, these shall be briefly documented, tarped for protection, and left in place. These resources shall be covered by construction plate(s) to protect them from harm until a qualified archaeologist, and if appropriate, a Native American monitor or Most Likely Descendant (MLD), can further investigate the deposit(s), feature(s), or burial(s).
- All work within 50 feet of archaeological resources shall be carefully excavated under the supervision of an archaeologist and a Native American monitor. All construction workers and their supervisors shall be given cultural sensitivity training by the archaeologist and Native American monitor so they

can better assist with exposing any cultural resources that are present while minimizing additional impacts.

- If Native American human remains are exposed, an archaeologist shall review the remains in combination with the archaeological site record. Should any human remains be encountered, all work in the vicinity shall be halted and the area covered by construction plates to protect the burial. The County Coroner shall be contacted pursuant to Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California, and would be responsible for notifying the Native American Heritage Commission (NAHC) which is empowered to assign an MLD for this project.
- Once an MLD is assigned, consultation can begin with the MLD, the property owner, and a representative of the City. Contingent upon the outcome, the archaeologist shall prepare a burial plan to address the removal and reburial of any human remains. The plan shall be approved by the City's Director of Planning, Building and Code Enforcement or the Director's designee before the human remains can be further addressed.
- Native American human remains and any associated burial goods shall be reburied in a location agreed upon by the MLD and the City's Director of Planning, Building and Code Enforcement or the Director's designee per the burial agreement.
- If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance
- If archaeological deposits or features that appear potentially eligible to the California Register of Historical Resources are identified during any stage of exploration or monitoring, an archaeological research design and work plan shall be prepared. If historic-era resources are unearthed, these resources shall be recorded as a separate archaeological site. This plan shall be approved by the City's Director of Planning, Building and Code Enforcement or the Director's designee before the archaeological deposits or features can be excavated.
- If unearthed, all features, archaeological deposits, and cultural material would be excavated according to current archaeological standards detailed in the approved research design and treatment plan. For Native American deposits and cultural materials, the Native American monitor and an MLD, if required, would assist.
- All features, archaeological deposits, and cultural material shall be cleaned, analyzed and evaluated for their eligibility to the California Register of Historical Resources. The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Director of Planning, Building and Code Enforcement or the Director's designee. The report(s) shall identify any program mitigation that the developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).

- The City is fiscally responsible for the curation of all artifacts deemed archival by current archaeological standards at History San José, except for any human remains and associated burial goods. The archaeologist shall prepare the artifacts and dietary remains in archival quality bags with artifact identification tags, provide two copies of a final artifact catalog for the items submitted, and two copies of the final archaeological report. Additional requirements by History San José shall also be addressed.
- The archaeologist shall prepare a supplemental site record for the archaeological resource documenting its removal. Any additional Native American resources identified shall be documented and the archaeological site boundaries modified.
- In the event that buried, or previously unknown archaeological deposits or materials of any kind are inadvertently exposed during any construction activity, work within 50 feet of the find shall cease until a qualified archaeologist can assess the find and provide recommendations for further treatment, if warranted. Construction and potential impacts to the area(s) within a radius determined by the archaeologist shall not recommence until the assessment is complete.
- A final report verifying completion of the mitigation program shall be submitted to the City’s Director of Planning, Building and Code Enforcement or the Director’s designee for approval prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.

Consistent with the Downtown Strategy 2040 EIR, implementation of the measures above would ensure the proposed project would not result in a significant impact to archaeological resources.

[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]

3) Would the project disturb human remains, including those interred outside of dedicated cemeteries? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

The project site and vicinity was determined to be highly sensitive for cultural resources, including the potential for disturbance of human remains interred outside of a dedicated cemetery. Please refer to Impact CUL-2 and MM CUL-2,1 above for additional discussion. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

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

State

Renewables Portfolio Standard Program

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

Pacific Gas and Electric Company (PG&E's) is the electricity provider to the project site. PG&E's 2017 electricity mix was 33 percent renewable; thus, they have already met the requirements of Executive Order S-14-08.¹⁸

Building Codes

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.¹⁹ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.²⁰

The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went in to effect on January 1, 2017, and covers five categories: planning and design,

¹⁸ PG&E. "Exploring Clean Energy Solutions". Accessed February 6, 2019. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.

¹⁹ California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed February 6, 2019. <http://www.bsc.ca.gov/>.

²⁰ California Energy Commission (CEC). "2016 Building Energy Efficiency Standards". Accessed February 6, 2019. <http://www.energy.ca.gov/title24/2016standards/index.html>.

energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

City of San José

Climate Smart San José

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

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

City Reach Code for Building Efficiency

The City Council approved Ordinance No. 30311 in September 2019 to amend various sections of Title 24 of the City's Municipal Code to adopt provisions of the 2019 California Green Building Standards Code and California Building Energy Efficiency Standards with certain exceptions, modifications and additions which serve as a Reach Code to increase building efficiency, mandate solar readiness and increase requirements related to electric vehicle charging stations. The Reach Code is an integral component of the Climate Smart Plan and its goals. The Reach Code goes into effect on January 1, 2020 and affects all new construction.

Sustainable City Strategy

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

Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient

Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies for the purpose of reducing or avoiding impacts related to energy.

General Plan Policies - Energy	
Green Building Policy Leadership	
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Energy Conservation and Renewable Energy Use	
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Water Conservation and Quality	
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Waste Diversion	
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Waste Reduction	
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Reduce Consumption and Increase Efficiency	
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
Policy MS-14.3	Consistent with the California Public Utilities Commission’s California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
Policy MS-14.4	Implement the City’s Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive

General Plan Policies - Energy	
	solar building design and planting of trees and other landscape materials to reduce energy consumption.
Water Conservation	
Policy MS-18.5	Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
Policy MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
Policy MS-18.7	Use the 2008 Water Conservation Plan as the data source to determine San José's baseline water conservation savings level.
Infrastructure Management	
Policy IN-2.1	Utilize the City's Infrastructure Management System Program to identify the most efficient use of available resources to maintain its infrastructure and minimize the need to replace it.
Solid Waste Materials Recovery/Landfill	
Policy IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
Vibrant, Attractive, and Complete Neighborhoods	
Policy VN-1.1	Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.
Neighborhood Serving Commercial	
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
Transportation	
Policy TR-1.4 ²¹	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

4.6.1.2 Existing Conditions

Total energy usage in California was approximately 7,830 trillion Btu in the year 2016, the most recent year for which this data was available. Out of the 50 states, California is ranked 2nd in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,853 trillion Btu) for industrial uses, and 40 percent (3,116 trillion

²¹ Policy TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

Btu) for transportation.²² This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,700 GWh of electricity was consumed in Santa Clara County.²³

San José Clean Energy (SJCE) is the electricity generation service provider for residents and businesses in the City of San José. Beginning in February 2019, SJCE has provided over 300,000 residential and commercial electricity customers with carbon-free electricity options at competitive prices, from sources like solar, wind, and hydropower. SJCE sources the electricity and the Pacific Gas and Electric Company delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2017, approximately 10 percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.²⁴ In 2017, residential and commercial customers in California used 32 percent, power plants used 28 percent, and the industrial sector used 36 percent. Transportation accounted for one percent of natural gas use in California.²⁵ In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.²⁶

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.²⁷ The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970's to 24.9 mpg in 2018.²⁸ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks Model Years 2011

²² United States Energy Information Administration. *State Profile and Energy Estimates, 2016*. Accessed September 6, 2018. <https://www.eia.gov/state/?sid=CA#tabs-2>.

²³ CEC. Energy Consumption Data Management System. "Electricity Consumption by County". Accessed October 9, 2019. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

²⁴ California Gas and Electric Utilities. 2017 California Gas Report. Accessed February 16, 2019. https://www.socalgas.com/regulatory/documents/cgr/2017_California_Gas_Report_Supplement_63017.pdf

²⁵ U.S. EIA. "Natural Gas." Accessed October 9, 2019.

https://www.eia.gov/dnav/ng/ng_sum_lsum_dc_u_sca_a.htm

²⁶ CEC. "Natural Gas Consumption by County". Accessed October 9, 2019.

<http://ecdms.energy.ca.gov/gasbycounty.aspx>.

²⁷ California Department of Tax and Fee Administration. Net Taxable Gasoline Gallons. Accessed February 16, 2019. http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.

²⁸ U.S. EPA. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

through 2020.^{29,30} In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.³¹

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

1)	Would the project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? [Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]
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Construction

The proposed hotel and residential project is consistent with the conclusions of the Downtown Strategy 2040 Plan policies that would require new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques (Action MS-2.11 and Policy MS-2.3).

Energy will also be used to demolish, excavate, transport, and dispose of demolition materials and soils. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed in *Section 4.3 Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

²⁹ U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 16, 2019. <http://www.afdc.energy.gov/laws/eisa>.

³⁰ Public Law 110-140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed February 16, 2019. <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

³¹ National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. August 28, 2012. Accessed February 16, 2019. <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards>.

Implementation of Downtown Strategy 2040 policies and existing regulations and programs would reduce energy loss resulting from the disposal of construction and demolition materials through diversion and recycling. The project would also recycle or salvage approximately 75 percent of construction waste as part of its LEED certification and compliance with the City’s Construction and Demolition Diversion Program (see also *Section 4.8 Greenhouse Gas Emissions*). Therefore, the proposed project, in conformance with the Downtown Strategy 2040, would not consume energy in a manner that is wasteful, inefficient, or unnecessary.

Operation

The project proposes to construct 303 hotel rooms and 19 residential condominiums. Parking would be provided in a three-level below-grade parking garage. Operation of the proposed building would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Table 4.6-1 summarizes the estimated energy use of the proposed project.

Table 4.6-1: Projected Annual Energy Use of Proposed Project¹		
Development	Electricity Use (kWh/yr)	Natural Gas Use (therms/yr)
Condo/Townhouse High Rise	83,372.2	164.15
Hotel	1,590,650	92,495.8
Enclosed Parking with Elevator	614,544	0
Source: Illingworth & Rodkin, Inc. 292 Stockton Avenue Toxic Air Contaminant Assessment. February 14, 2019. <u>Notes:</u> ¹ The project’s energy use shown in Table 4.6-1 represents the mitigated project.		

Impact EN-1: The proposed project may increase emissions associated with vehicle travel. **(Significant Impact)**

Mitigation Measures: Consistent with the Downtown Strategy 2040 and DSAP FEIRs, the following project-specific mitigation measure was developed to reduce emissions as a result of vehicle travel.

MM EN-1.1: To reduce emissions associated with vehicle travel, the project applicant shall be required to implement a transportation demand management (TDM) program. The TDM program may incorporate the following Transportation Control Measures (TCMs): shuttle service, proximity to major transit, electric vehicle charging, bicycle facilities, and pedestrian connections. The TDM program shall be approved by the Director of Planning, Building and Code Enforcement or the Director’s designee.

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

2) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency? **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction of the proposed project would not result in the conversion of a greenfield site to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to redevelop an infill location in Downtown San José and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals (such as increased building energy efficiency) for this downtown site. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy 6-32, which establishes baseline green building standards to minimize the use and waste of energy, water, and other resources.

The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Additionally, the project would provide 22 long-term bicycle parking spaces and 14 short-term bicycle parking spaces. By reducing single-occupancy traffic trips and including green design measures to achieve LEED certification, the proposed project would comply with existing State energy standards. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based upon a Geotechnical Report prepared by BAGG Engineers in March 2019. A copy of this report is attached as Appendix C of this Initial Study.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Paleontological Resources Regulations

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

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the 2017 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

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

General Plan Policies - Geology, Soils, and Seismic Hazards	
Seismic Hazards	
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-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
Policy EC-3.3	The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
Policy EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-

General Plan Policies - Geology, Soils, and Seismic Hazards	
	Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
Geologic and Soil Hazards	
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	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.3	Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.
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 soil disturbance of one acre or more, are 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.
Paleontology	
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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

4.7.1.2 Existing Conditions

Regional Geology and Topography

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain that lies between the Santa Cruz Mountains to the southwest and west and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains, and the Hayward and Calaveras Fault systems exist within the Diablo Range.

Soil Properties and Groundwater

The 0.86-acre project site is flat. Soils within the area of the project site consist of Holocene alluvial fan and flood basin deposits with interlayered deposits of stiff to very stiff lean clay underlain by medium dense to dense silty sand and well-graded gravel with sand.³² The upper fill soils have a high plasticity index and therefore may be moderately to highly expansive in nature. The lower fill soils, consisting of granular soils and lean clay, have a low expansion potential.

Groundwater in the project area is located approximately 15 to 20 feet below ground surface. Groundwater elevations and direction of flow can be affected by factors including precipitation, stream flow, irrigation practices, and ground water pumping.

Seismicity

The project site is located within the seismically-active San Francisco Bay region; however, the site is not located within a designated Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Hazard Zone. There are three major active faults in the vicinity of the project site: the San Andreas Fault, approximately 11 miles to the southwest, the Calaveras Fault, approximately nine miles to the east, and the Hayward Fault, approximately six (6) miles to the northeast of the project site. There are no known earthquake faults crossing the site. Local ground cracking is possible due to the high seismic activity of the region, and the potential exists for strong ground shaking at the site from a large earthquake.

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water-saturated soils from a solid state to a liquid state during ground shaking. Liquefied soils may lose shear strength that may lead to large shear deformations and/or flow failure under moderate to high shear stresses, such as beneath foundations. Liquefaction at the site could cause structural distress or failure due to ground settlement or deformation and/or a loss of bearing capacity in the foundation soil. The project site has a moderate potential for liquefaction.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or “free” face such as an open body of water, channel, or excavated area. There are no creeks, channels, or open bodies of water on or adjacent to the project site. The nearest drainage feature to the site is the Guadalupe River located approximately 0.3-mile northeast of the site. Therefore, the potential for lateral spreading to affect the site is very low.

Landslides

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

³² *BAGG Engineers*. Geotechnical Report. March 2019.

4.7.2

Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) 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"/>
4) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) 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"/>
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

Although the project site is not located on a known, active fault or located in an Alquist-Priolo Earthquake Fault Zone or other fault hazard zone, the project site is located in a seismically-active region. Specifically, the Hayward fault is the principal seismic hazard to the project site because of its activity rate and proximity to the site. Therefore, the project site would likely be subject to strong shaking during the lifetime of the proposed project. The geotechnical analysis prepared for the proposed project identifies the potential for saturated medium dense granular soil layers to liquefy during a major earthquake event. The results of the liquefaction analysis indicate that during a design-level seismic event the ground surface settlement could be as much as 3/4-inch.

Due to the flat topography of the site, the project would not be subject to impacts from seismic-related hazards including lateral spreading, slope instability, or landslides. The project site is subject to liquefaction-induced settlement potential. Liquefaction can result in ground failure (e.g. fissures), foundation bearing failure, and settlement of the ground surface, which can ultimately damage future development or endanger future residents on site. The proposed project would be required to implement the following Standard Permit Conditions to reduce significant seismic impacts:

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- A final design-level Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The design-level Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the design-level Geotechnical Report and issue a Geologic Clearance.

The proposed project, with the implementation of the standard permit conditions listed above, would not result in any new or greater seismic hazard impacts than were previously identified in the DSAP PEIR or exacerbate hazards on adjacent properties. **[Same Impact as Approved Project (Less than Significant Impact)]**

2) Would the project result in substantial soil erosion or the loss of topsoil?
[Same Impact as Approved Project (Less than Significant Impact)]

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

Standard Permit Conditions:

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

The proposed project, with the implementation of the standard permit conditions listed above, would not result in any new or greater soil erosion impacts than were previously identified in the Downtown Strategy 2040 and DSAP FEIRs. **[Same Impact as Approved Project (Less than Significant Impact)]**

3) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
[Same Impact as Approved Project (Less Than Significant Impact)]

Dewatering will be required to keep the excavation area dry even without any seepage from the surrounding areas, and to avoid disturbance of the excavation from hydrostatic pressures. Groundwater removed during dewatering should be disposed of in accordance with applicable state and local regulations (refer to *Section 4.9 Hazards and Hazardous Materials*).

Dewatering within the excavation to three feet below the lowest level of excavation is not likely to cause settlement of the surrounding structures; however, improvements within 50 feet of the excavation shall be monitored to check for dewatering-induced settlement as a part of the construction monitoring program. The project proposes floodproofing the subgrade parking garage such that dewatering would not be required for the life of the project and, therefore, would cease following project construction. The termination of pumping would not take place until there are adequate structural loads on the building shell to resist hydrostatic uplift.

As identified in the Downtown Strategy 2040 FEIR, the project would be required to implement the following Standard Permit Condition to reduce soil impacts:

Standard Permit Conditions:

- Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The geotechnical investigation shall evaluate the underlying sediments and determine the potential for settlements to occur. If the geotechnical investigation determines that unacceptable settlements may occur, then alternative groundwater control systems shall be required. The proposed project would abide by the recommendations of the Geotechnical Investigation.

Conformance with the above Standard Permit Condition would reduce adverse effects on proposed improvements associated with soil conditions on the site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

-
- 4) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial director indirect risks to life or property? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

The upper fill soils on the project site are moderately to highly expansive. The lower fill soils, consisting of granular soils and lean clay, have a low expansion potential. Since the upper fill soils will be removed due to the presence of elevated soluble lead concentrations, the potential for highly expansive soils to affect the proposed structure would be eliminated.³³

As discussed in the DSAP PEIR, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if expansive soils are not considered during project design and construction. The proposed project would be required to implement the following Standard Permit Condition to reduce and/or avoid impacts related to expansive soils:

Standard Permit Condition:

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

The proposed project, with the implementation of the standard permit conditions listed above, would not result in any new or greater expansive soils impacts than were previously identified in the DSAP or Downtown Strategy 2040 FEIR or exacerbate hazards on adjacent properties. **[Same Impact as Approved Project (Less than Significant Impact)]**

³³ Email with Evan Wolf at BAGG Engineers. March 19, 2019.

5)	Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of wastewater? [Same Impact as Approved Project (No Impact)]
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The proposed development would connect to the existing utilities (e.g., sewer system) in the adjacent streets and would not require septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (No Impact)]**

6)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? [Same Impact as Approved Project (Less Than Significant Impact)]
----	--

Development of the project site has a low potential to impact undiscovered paleontological resources at the surface, based on the age and type of soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials. Since the project includes the excavation to 43 feet below grade for parking, the project has the potential for encountering paleontological deposits during construction. Construction activities may result in the accidental destruction or disturbance of paleontological resources, which could convey important information. Although not anticipated, construction activities associated with implementation of the proposed project could result in a significant impact to paleontological resources, if encountered. The proposed project would be required to implement the following Standard Permit Conditions to protect paleontological resources:

Standard Permit Conditions:

- The City shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.
- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director’s designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director’s designee of the PBCE.

With implementation of the above standard permit conditions, the proposed project would not result in a significant impact to paleontological resources. This conclusion is consistent with the analysis in the Downtown Strategy 2040 and DSAP EIRs. **[Same as Approved Project (Less than Significant Impact)]**

4.7.3 Non-CEQA Effects

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA v. 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 the future users of a project unless the project risks exacerbating those environmental hazards or risks that already exist.

Existing on-site conditions include highly expansive soils at the surface that reduce to low expansion potential at depth. In addition, the project site would experience very strong ground shaking during an earthquake and could experience approximately 3/4-inch of liquefaction-induced settlement. Since these are existing conditions that may affect the project, the City has policies and regulations that address the effects of existing conditions on a proposed project. These General Plan policies have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City.

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 area, 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. Pursuant to the Downtown Strategy FEIR, prior to issuance of site-specific grading or building permits, a final design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code and all City policies and ordinances. 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 the proposed development site is 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.

Because the proposed project would comply with the design-level geotechnical report, the California Building Code, and Policies EC-4.2 and EC-4.4 identified in the General Plan that ensure geologic hazards are adequately addressed.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

Federal

Clean Air Act

The U.S. EPA is the federal agency responsible for implementing the Clean Air Act (CAA). Under the CAA, the EPA has the authority to regulate emissions of GHGs. The EPA also has authority to monitor GHG emissions and potentially prescribe actions to reduce those emissions.

State

Global Warming Solutions Act

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

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO_{2e}). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO_{2e}.

Senate Bill 375

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

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing (criteria) pollutants and GHG emissions into a single coordinated set of requirements for model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.³⁴

Regional

Bay Area 2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

City of San José

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 Ordinance (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)

³⁴ CARB. "The Advanced Clean Cars Program". Accessed September 6, 2018.
<https://www.arb.ca.gov/msprog/acc/acc.htm>.

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

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

Envision San José 2040 General Plan

Various policies in the City’s 2040 General Plan have been adopted for reducing or avoiding impacts related to greenhouse gas emissions, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to Sections 4.3 Air Quality, 4.6 Energy, and 4.16 Transportation for these policies.

General Plan Policies - GHG Emissions	
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building policies, 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 effectiveness of passive solar design.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
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,

General Plan Policies - GHG Emissions	
	water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

4.8.1.2 Existing Conditions

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns. The principal GHGs contributing to global warming include CO₂, methane, nitrous oxide, and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, manufacturing, utility, and agricultural sectors.

The project site is currently vacant and serves as a parking lot for construction workers at a development project on Stockton Avenue and the SAP center. GHG emissions are generated by the number vehicle trips to and from the project site.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
1) Generate greenhouse gas (GHG) 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"/>
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Impact GHG-1:	Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? [Same Impact as Approved Project (Less Than Significant Impact)]
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GHG emissions associated with development of the proposed project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal.

Construction

The proposed development would result in a temporary increase in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. 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. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Based on CalEEMod calculations, the project would emit a total of approximately 442 MT/year of CO₂e. Because construction would be temporary (12 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 in 2020 or SB 32 in 2030.

Operation

BAAQMD adopted revised CEQA Air Quality Guidelines in June 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. The BAAQMD GHG thresholds include a specific plan- and project-level GHG emission bright-line threshold of 1,100 MT of CO₂e or 4.6 MT of CO₂e per service population (residents and workers) per year for projects to achieve the 2020 AB 32 statewide targets. Given that the project and buildout of the Downtown Strategy 2040 would not be constructed and operational prior to December 31, 2020, the City has developed updated GHG emissions targets reflecting statewide goals beyond 2020. GHG emissions resulting from the Downtown Strategy 2040 buildout, a portion of which is represented by the project, were compared to a threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. Though BAAQMD has not published a quantified threshold for 2030 yet, the "Substantial Progress" threshold of 2.6 MT CO₂e/year/service population was used. This is calculated for 2030 based on the GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.³⁵

Based on the Downtown Strategy 2040 FEIR, full build-out of the Downtown Strategy 2040 Plan would result in annual emissions of 2.09 MT of CO₂e/service population which would not exceed the 2030 "Substantial Progress" threshold of 2.6 MT CO₂e/service population annually. Development from full build-out in 2040 would be 2.21 MT of CO₂e/service population annually, exceeding the 2040 "Substantial Progress" threshold of 1.7 MT of CO₂e/service population annually, resulting in a significant unavoidable greenhouse gas emissions impact.

As detailed in the Downtown Strategy FEIR, operational emissions from the Downtown Strategy 2040, including the proposed development, would meet the 2030 threshold.

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

³⁵ Association of Environmental Professionals. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. October 2016.

2)	Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? [Same Impact as Approved Project (Less Than Significant Impact)]
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2017 Clean Air Plan

The Downtown Strategy supports the goals of the 2017 Clean Air Plan through incorporation of the following:

- Reducing motor vehicle miles traveled by facilitating development in proximity to existing/proposed/planned pedestrian, bicycle, and transit facilities;
- Including a TDM program that encourages automobile-alternative transportation;
- Complying with applicable regulations that would result in energy and water efficiency including Title 24 and California Green Building Standards Code.

The proposed project would construct a hotel and condominiums in close proximity to multimodal facilities, incorporate a TDM program, and comply with Title 24 and the California Green Building Standards Code. The project, therefore, would not conflict with the applicable control measures in the 2017 CAP.

Envision San José 2040 General Plan

The proposed project is consistent with the 2040 General Plan policies to reduce GHG emissions by facilitating development near existing multimodal facilities, incorporating green building practices, providing bike parking, and developing a TDM program to reduce VMT.

Consistency with the San José Greenhouse Gas Reduction Strategy

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 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. 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.

Since the project is consistent with the General Plan land use designations for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

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. Given the project's consistency with the General Plan land use designation, compliance with Policy 6-32 and California Building Code requirements, the project would be consistent with mandatory criteria 1, 2, and 3. The proposed project would include a TDM plan and, therefore, the project would be consistent with criteria 6.

Criteria 4, 5, and 7 are not applicable to the proposed project because the project site has no historic structures, the project does not include a data center or other energy-intensive uses, and the site does not propose drive-through or vehicle serving uses.

Please also see discussion for Impact GHG-1, above.

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

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part upon a Phase I Environmental Site Assessment prepared by *Envirocare Associates, Inc.* in May 2017, and a limited soil sampling analysis contained in the Geotechnical Report (Appendix C). A copy of the Phase I is attached as Appendix D to this Initial Study.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials Overview

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

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

Cortese List

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and Santa Clara County. The project site is not on the Cortese List.³⁶

California Accidental Release Prevention Program

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

³⁶ CalEPA. "Cortese List Data Resources". Accessed October 22, 2018. <https://calepa.ca.gov/sitecleanup/corteselist>.

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

Asbestos-Containing Materials and Lead-Based Paint

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

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

Federal Aviation Regulations Part 77

Federal Aviation Regulation Part 77 sets forth standards and review requirements for the protection of airspace. Part 77 is administered by the FAA and includes the restrictions on the height of potential structures, use of reflective surfaces and flashing lights, electronic interference, and other potential hazards to aircraft in flight. Building height restrictions are intended to keep flight paths clear of structures that could interfere with takeoff and landing movements.

City of San José

Envision San José 2040 General Plan

Various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials, as listed below.

General Plan Policies - Hazards and Hazardous Materials	
Environmental Contamination	
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.

General Plan Policies - Hazards and Hazardous Materials	
Policy EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City’s Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
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	On 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	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
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.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Safe Airport	
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.

General Plan Policies - Hazards and Hazardous Materials	
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 ReidHillview 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.
Community Health, Safety, and Wellness	
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City’s Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

4.9.1.2 Existing Conditions

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include motor oil and fuel, metals (e.g., lead, mercury, and arsenic), asbestos, pesticides, herbicides, and chemical compounds used in manufacturing and other uses. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed, or released into the environment in the event of an accident. Determining if such substances are present on or near project sites is important because exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Historic and Current Uses

Project Site

Based on review of aerial photographs of the subject site, the site was previously occupied by a gasoline station and a casket manufacturing factory (1932 to 1954), a house/multi-family dwelling, machine shops, service industry businesses, electric supply warehouse, stores, and storage for historical museum artifacts collection (1975 to 2009). The former buildings on site were demolished in approximately 2009. The project site currently serves as a parking lot.

On-Site Potential Sources of Contamination

Hazardous Materials Sites: Pursuant to Government Code Section 65962.5

Envirocare Associates, Inc. completed a search of publicly available information from federal, State, tribal, and local databases containing known and suspected sites of environmental contamination and sites of potential environmental significance for the project site and surrounding area. According to a list of hazardous waste manifests received by the Department of Toxic Substances Control (DTSC), the project site is listed as formerly containing asbestos containing waste and Polychlorinated biphenyls and materials (PCBs).

Based on review of the historical records and discussion with the city officials, there was a historical gas station at the subject site from approximately 1932 to 1954. No records of tank removal/abandonment were provided and no site investigations reports were available for the subject property. As a result, a Ground Penetrating Radar Report was conducted to determine if the UST is still present on-site, and results indicate that the UST is likely no longer present on-site.³⁷

As a result of the historic uses and proximity to potentially contaminated sites, additional soil and groundwater sampling was completed by BAGG Engineers to determine the potential for hazardous waste contamination on-site. On February 6, 2018, subsurface conditions were explored to depths of 42 to 80 feet near the approximate locations of the prior USTs. On February 14, 2018, two monitoring wells were installed to obtain more stable groundwater level readings. On February 15, 2018, eight additional borings were advanced in order to obtain additional soil samples for geotechnical analysis. Samples at the upper four feet of soil were collected for analytical testing.

The results showed that the upper fill soils on-site contained soluble lead concentrations of 170 mg/kg in which is 10 times the STLC regulatory level listed in the California Code of Regulations. Other metals including arsenic, nickel, chromium, and mercury exceed the 2019 ESLs and STLC regulatory levels set by the RWQCB for direct exposure to human health risk at residential sites. The concentration of vanadium detected in each of the soil samples exceed the 2019 RWQCB Tier 1 ESLs for protection of urban terrestrial habitats, but are below those designated for direct exposure human health risk.

Groundwater samples detected concentration of benzopyrene and selenium detected that were found to be in excess of the respective the Tier 1 ESLs. The Tier 1 ESLs benzopyrene and selenium are both based on the substances serving as an ecotoxin for freshwater aquatic habitats.

Asbestos Containing Materials

Asbestos is a hazardous cancer-causing material that can become airborne and inhaled. Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder, by hand, allowing the asbestos particles to become airborne. Common examples of products 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

³⁷ Ground Penetrating Radar works by sending pulses of energy into a material and recording the stretch and the time required for the return of the reflected signal. Reflections are produced when the energy pulses enter into a material with different electrical conduction properties from the material it left, which would indicate presence of a UST.

binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and siding. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. Use of friable asbestos products was banned in 1978. That same year the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. The most recent building on-site was demolished in 2009 consistent with State standards for ACM removal.

Off-Site Hazards

The Phase I ESA identified 54 properties within a half-mile of the site containing leaking registered storage tank facilities. According to the Hazardous Waste Manifest Data collected annually by DTSC, seven sites are located within a half-mile of the property that are listed as having oil containing waste and other organic and solvent mixtures.

Other Hazards

Airports

Norman Y. Mineta San José International Airport (Airport) is located less than two miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is within the Airport Influence Area but not within a CLUP-designated safety zone.

Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation. The height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight are of particular concern. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport runway, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure of a height greater than approximately 40 to 45 feet above ground is required under FAR Part 77 to be submitted to the FAA for review. As the project proposes a maximum building height of 109 feet above ground, airspace safety review by the FAA is required.

The project is not located in the vicinity of a private airstrip.

Wildfire Hazards

The project site is located in Downtown San José. The project site is not located close to the City’s designated wildland-urban interface and is not located within a Very High Fire Hazard Severity Zone.

4.9.2

Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) 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"/>
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) 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"/>
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6) 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"/>
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

-
- 1) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? [**Same Impact as Approved Project (Less than Significant Impact)**]
-

The proposed hotel and residential project would routinely use limited amounts of cleaning materials that would be handled, stored, and disposed of in accordance with State regulations. The project would not include activities that would emit hazardous emissions or use acutely hazardous materials; therefore, the project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. [**Same Impact as Approved Project (Less than Significant Impact)**]

-
- 2) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? [**Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)**]
-

Soil Contamination

As disclosed and evaluated in the Downtown Strategy 2040 FEIR, redevelopment of sites within the Downtown could expose construction workers and/or the public to hazardous materials from existing soil and groundwater contamination. The routine transport of hazardous materials, in accordance with RCRA, would be regulated by the City. Hazardous toxic waste requiring removal from the site would be transported by a DTSC-registered hazardous waste transporter.

Implementation of mitigation measures based upon the policies in the General Plan and mitigation measures identified in the Downtown Strategy 2040 FEIR would reduce these potential impacts to a less than significant level, as described below.

Based on soil and groundwater sampling that was collected for the property in February 2018, the upper fill soils on-site contain concentrations of soluble lead resulting in a classification as a non-RCRA hazardous toxic waste. Other metals including arsenic, nickel, chromium, and mercury exceed the 2019 ESLs and STLC regulatory levels set by the RWQCB for human health risk at residential sites due to direct exposure.

Impact HAZ-1: Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and expose construction workers, sensitive receptors, and the public. (**Significant Impact**)

Mitigation Measures

In conformance with local, state, and federal regulations and program mitigation in the certified Downtown Strategy 2040 FEIR, the project shall implement the following mitigation measures with the oversight of the Santa Clara County Department of Environmental Health and City of San José to reduce soil contamination impacts associated with redevelopment of the site to a less than significant level.

MM HAZ-1.1:

Prior to the issuance of a demolition or grading permit, the project applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH) to discuss the proposed development project and perform any other necessary investigations and studies to address the residual contamination as deemed necessary by the SCCDEH. The project applicant shall share the results of the Phase I completed by Envirocare Associates, Inc. (May 2017) and the limited soil sampling results from the Geotechnical Investigation completed by BAGG Engineers (March 15, 2019) with the SCCDEH. The regulatory agency may require a Site Management Plan (SMP) or similar document to manage the cleanup of contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils.

At a minimum, the SMP shall include the following:

- Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs
- Proper disposal procedures of contaminated materials
- Monitoring, reporting, and regulatory oversight notifications
- A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection
- The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction.

Evidence of the applicant's meeting with the SCCDEH such as an email or letter along with a copy of the SMP approved by the SCCDEH (if applicable) shall be provided to the City's Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Environmental Compliance Officer in the City of San Jose's Environmental Services Department.

The site-specific mitigation measures identified above address the further characterization of soil contamination impacts previously disclosed on the project site by the Downtown Strategy 2040 FEIR. With the implementation of the above measures, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The implementation of these site-specific measures are consistent with the mitigation measures approved in the Downtown Strategy 2040 FEIR and with expected contamination types and levels in a developed urban area. The contamination addressed by these measures does not represent a substantially more severe effect of the project and all the required mitigation measures, identified above, will be implemented by the applicant.

Groundwater Contamination

Groundwater samples on the site detected concentration of benzopyrene and selenium detected that were found to be in excess of the respective Tier 1 ESLs. The Tier 1 ESLs benzopyrene and selenium are both based on the substances serving as an ecotoxin for freshwater aquatic habitats.

Impact HAZ-2: Groundwater on the site contains elevated levels of benzopyrene and selenium that could be toxic to fish species if discharged into local waterways. **(Significant Impact)**

Mitigation Measures

In conformance with local, State, and federal regulations and program mitigation in the certified Downtown Strategy 2040 FEIR, the project shall implement the following mitigation measures with the oversight of the Santa Clara County Department of Environmental Health and City of San José to reduce groundwater contamination impacts associated with redevelopment of the site to a less than significant level.

MM HAZ-2.1: The project applicant shall ensure that groundwater at the site is not directly discharged into the storm drain by complying with the NPDES permit requirements.

MM HAZ-2.2: To avoid the spread of harmful levels of contamination, the discharge of any water from dewatering activities shall be required to comply with NPDES permit requirements or wastewater discharge permit conditions to the sanitary sewer, which may involve installation of a treatment system(s) at the dewatering location.

MM HAZ-2.3: All investigations and plans shall be completed by a qualified hazardous materials consultant, in conformance with State and local guidelines and regulations. The investigations and plans shall be subject to review and approval by the appropriate regulatory oversight agencies and the City's Environmental Compliance Officer through the City's development review process.

The site-specific mitigation measures identified above address the further characterization of soil contamination impacts previously disclosed on the project site by the Downtown Strategy 2040 FEIR. With the implementation of the above measures, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The implementation of these site-specific measures are consistent with the mitigation measures approved in the Downtown Strategy 2040 FEIR and with expected contamination types and levels in a developed urban area. The contamination addressed by these measures does not represent a substantially more severe effect of the project and all the required mitigation measures, identified above, will be implemented by the applicant. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

-
- 3) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? **[Same Impact as Approved Project (No Impact)]**
-

There are no schools located within a quarter mile of the project site. The project, therefore, would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **[Same Impact as Approved Project (No Impact)]**

-
- 4) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

According to a list of hazardous waste manifests received by the Department of Toxic Substances Control (DTSC), the project site is listed as formerly having asbestos containing waste, polychlorinated biphenyls and materials (PCBs), oil containing waste, and other organic and solvent mixtures. The project site is not listed on the Cortese List pursuant to Government Code Section 65962.5. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 5) Would the project, for a project located within an airport land use plan or, where such a plan has not been adopted within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

The Downtown Strategy 2040 does not specify a height limit for the Downtown area. However, projects within the Downtown Strategy area are consistent with the Airport Land Use Commission's (ALUC) Land Use Plan which contains height limitations based on FAA requirements related to the Norman Y. Mineta San José International Airport. The project site is located in the Airport Influence Area for the Norman Y. Mineta San José International Airport. Based upon the Notice Requirement Criteria for filing an FAA Form 7460-1 Map, the project site cannot exceed building heights ranging between 120 to 130 feet above mean sea level.³⁸

Pursuant to Federal Aviation Regulations/Part 77, and Envision San Jose 2040 General Plan policy, the proposed building is required to be filed with the FAA for airspace safety review and to obtain FAA "determinations of no hazard." The project proponent has complied with the filing requirement and received in September 2018 the requisite determinations for the proposed 109-ft. above-ground structure. The FAA issuance of these determinations, which remain valid until March 2020, ensures that the proposed project will not create an airspace safety impact, nor would the project be subject to excessive aircraft noise (see *Section 4.13 Noise and Vibration*). The project, therefore, would not result in a safety hazard or excessive noise for people residing or working in the project area. **[Same Impact as Approved Project (Less than Significant Impact)]**

³⁸ Norman Y. Mineta San Jose International Airport. *Notice Requirement Criteria for Filing FAA Form 7460-1*. June 24, 2009.

Standard Permit Conditions

- Prior to the issuance of a development permit for any project structures that would exceed the FAA imaginary surface applicable to the project site, the following actions shall be accomplished (2040 General Plan Polices TR-14.2 and CD-5.8):
 - The applicant shall comply with the notification requirements of Federal Aviation Regulations, Part 77, and receive a “Determination of No Hazard” from the FAA.
 - Conditions set forth in the required FAA determination of No Hazard regarding roof-top lighting or marking shall be incorporated into the final design of the structure.
 - Avigation and/or “no build” easements shall be dedicated to the City of San José as a condition of approval (GP Policy TR-14.4).
- Comply with safety and noise policies identified in the CLUP for the Norman Y. Mineta San José International Airport (GP Policy TR-14.3).
- Design all new exterior lighting within the AIA in a manner that avoids interference with aircraft operations. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots (CLUP Policy G-7).

6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan? **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project would allow for adequate emergency vehicle access to the site from both adjacent roadways. The proposed project would not impair or interfere with implementation of an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project is located in an urban area and is not in a designated fire hazard severity zone. The proposed project would not expose future site users or the proposed building to wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Water Quality Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (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 Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal

National Flood Insurance Program

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

State

Statewide Construction General Permit

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

Regional

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect

these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Stormwater NPDES Permit/Provision C.3

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit³⁹ (MRP) to regulate stormwater discharges from municipalities and local agencies in Alameda, Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun City, and Vallejo. Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

In addition to water quality controls, the MRP requires 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. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Santa Clara Valley Water District

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

City of San José

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

³⁹ MRP Number CAS612008

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit.

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

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

General Plan Policies - Hydrology and Water Quality	
Flooding and Stormwater Runoff	
Policy EC-5.5	Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans.
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.
Stormwater	
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-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
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.
Water	
Policy ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
Policy ER-10.2	In Consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.
Water Conservation and Quality	
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

General Plan Policies - Hydrology and Water Quality	
Policy MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
General Provision of Infrastructure	
Policy IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
Policy IN-1.2	Consistent with fiscal sustainability goals, provide and maintain adequate water, wastewater, and stormwater services to areas in the city that do not currently receive these City services upon funding and construction of the infrastructure necessary to provide them.
Water Supply, Sanitary Sewer and Storm Drainage	
Policy IN-3.4	<p>Maintain and implement the City’s Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:</p> <ul style="list-style-type: none"> • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board’s General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
Policy IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Development Fees, Taxes and Improvement Requirements	
Policy IP-15.2	<p>To finance the construction and improvement of facilities and infrastructure systems for which the demand for capacity cannot be attributed to a particular development, consider a series of taxes or fees through which new growth collectively finances those facilities and systems, as follows.</p> <ul style="list-style-type: none"> • Construction Tax and the Conveyance Tax (the latter paid in connection with any transfer of real property, not just new development) provide revenue for parks, libraries, library book stock, fire stations, maintenance yards and communications equipment. • The Building and Structures Tax and Commercial/Residential/Mobilehome Park Tax provide revenue for the construction of San José’s major street network. • Connection Fees provide revenue for the construction of storm sewers, sanitary sewers and expansions of sewage treatment capacity at the Water Pollution Control Plant.

General Plan Policies - Hydrology and Water Quality	
	<ul style="list-style-type: none"> • Fees and taxes may need to be adjusted from time to time to reflect changing costs and new requirements. Additionally, new fees or taxes may need to be imposed to finance other capital and facility needs generated by growth. • Where possible, if a developer constructs facilities or infrastructure for which these taxes are imposed, the developer may be provided with corresponding credits against the applicable taxes or fees.

4.10.1.2 Storm Drainage

The project site is flat and unpaved. The nearest waterway to the site is the Guadalupe River, approximately 0.3 mile east of the project site.

Runoff from the site flows over land into the City-maintained storm drainage system, comprised of a network of inlets, manholes, pipes, outfalls, channels, and pump stations. Many of the storm drains in the DSAP area are 10 inches or 12 inches in diameter and are designed to accommodate a storm event that would statistically occur every two or three years. Therefore, many of the pipelines are in need of replacement in order to meet current requirements for accommodating a 10-year storm. Stormwater runoff from the DSAP area is conveyed to the Guadalupe River either directly or indirectly via Los Gatos Creek through 17 outfalls.

Based on the Hydromodification Management Applicability Map (as amended July 2011), the project site is located within a sub-watershed that is greater than 65 percent impervious. Therefore, the proposed project would be exempt from the Hydromodification Management Projects (HMP) requirements in the Municipal Regional Stormwater NPDES Permit.

4.10.1.3 Flooding

The project site is not located within a 100-year floodplain.⁴⁰ According to the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Map, the project site is located within Zone D, which is defined as areas in which flood hazards are undetermined, but possible.

4.10.1.4 Dam Failure

The Association of Bay Area Governments compiled the dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. The project site is located within the Lexington Dam failure inundation zone.⁴¹

4.10.1.5 Seiches, Tsunamis, and Mudflows

A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche.

A tsunami or tidal wave is a series of water waves caused by displacement of a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy

⁴⁰ FEMA. “Flood Insurance Rate Map Number 06085C0233H.” Accessed August 17, 2018.

⁴¹ City of San José. *Envision San José 2040 General Plan- Appendix G*. December 2010

involved, tsunamis can devastate coastal regions. There are no large bodies of water near the project site. The site elevation ranges from 77 to 80 feet above mean sea level.⁴² The site does not lie within a tsunami inundation hazard area.⁴³

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

4.10.2 Impact Discussion

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

⁴² Google Earth Pro. Version 7.1.5.1557.

⁴³ California Department of Conservation. “Santa Clara County Tsunami Inundation Quads”. Accessed February 19, 2019. <https://www.conservation.ca.gov/cgs/Pages/Tsunami/Maps/SantaClara.aspx>

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

1)	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality? [Same Impact as Approved Project (Less Than Significant Impact)]
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Construction-Related Impacts

Construction of the proposed project, including grading and excavation activities, may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. The project site is 0.86 acre and, therefore, does not require coverage under the NPDES General Permit for Construction Activities, which only applies to sites that are larger than one acre.

Dewatering will be required during construction to keep the excavation area dry even without any appreciable seepage from the surrounding areas, and to avoid disturbance of the excavation from hydrostatic pressures. Groundwater removed during dewatering would be disposed of in accordance with applicable state and local regulations.

All development projects in San José shall comply with the City’s Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management Practices (BMPs) that would be implemented to prevent the discharge of stormwater pollutants.

Standard Permit Conditions:

Consistent with the General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks 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 shall be swept daily with water sweepers.
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The project, with the implementation of the above standard permit conditions, would not result in new or more significant construction-related water quality impacts than disclosed in the Downtown Strategy 2040 FEIR.

Post-Construction Impacts

Under existing conditions, the project site is entirely pervious. The project site would increase impervious surfaces; however, stormwater runoff would be minimized through installation of stormwater treatment features (e.g., planters). Construction of the project would add more than 10,000 square feet of impervious surface area. This specific development would be required to comply with the City of San José’s Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP.

The project may qualify for LID treatment reduction credits under the Special Projects provisions for small infill development. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is ultimately subject to the City’s review and approval. Two landscaped stormwater treatment areas would be located along the northern and southwestern portions of the perimeter of the building. The treatment areas would be numerically sized and would have sufficient capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements. The proposed treatment areas would also reduce stormwater runoff from the site.

The Downtown Strategy 2040 FEIR concluded that projects designed to be consistent with the current NPDES permit would ensure that stormwater runoff from new development would have a less than significant impact on stormwater quality. Compliance with the City’s Grading Policy, the City’s Urban Runoff Policy 6-29, and RWQCB’s MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts on water quality as described in the General Plan FEIR (as amended) and Downtown Strategy 2040 FEIR.

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

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

Groundwater is present beneath the project site at a minimum depth of 15 feet below ground surface (bgs) and is not used for drinking water. The project site is entirely pervious. Development of the proposed project would lead to moderately less groundwater recharge on the site due to the increase in impervious surface area.

Groundwater beneath the site is present at depths between approximately 15 and 20 feet below ground surface and is not used for drinking water. The project site, which is relatively small (i.e., approximately one acre), is not located within a designated groundwater recharge zone.⁴⁴ For this reason, although the proposed project would reduce the area of pervious surfaces on the site, the project would not substantially affect groundwater recharge. Excavation during construction of the proposed project would require relatively shallow cuts (i.e., less than 10 feet), and, therefore would not come in contact with groundwater. Based on the above, implementation of the proposed project would not result in new or more significant impacts to groundwater than identified in the Downtown Strategy 2040 and DSAP FEIRs. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: result in a substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The existing stormwater system collects untreated stormwater from the site and surrounding area and discharges it directly into Guadalupe River through an existing outfall. Development of the proposed project would not substantially alter the existing drainage pattern of the site. The proposed project would increase impervious surfaces on the project site by approximately 35,033 square feet. The drainage pattern under the proposed project would be similar to existing conditions, except the runoff generated by the project site would be treated by stormwater treatment control measures, prior to entering the stormwater drainage system and discharging to the Guadalupe River. The proposed stormwater treatment would reduce the rate of stormwater runoff while also removing pollutants. While there would be an incremental increase in the volume of stormwater generated from the site due to an increase in impervious surfaces, the project would not change drainage patterns or exceed the capacity of existing stormwater drainage facilities in the project area. Compliance with the MRP and associated GP policies would ensure the volume and rate of runoff would be minimized. For these reasons, implementation of the proposed project would not result in new or more significant impacts to drainage patterns on or off the site than identified in the in the Downtown Strategy 2040 and DSAP FEIRs.

⁴⁴ Santa Clara Valley Water District. *Groundwater Management Plan*. November 2016.

Flooding

The project site is located within Zone D, which is defined as areas that have an undetermined risk of flooding due to lack of flood analyses, but flooding is possible. The proposed project is not located within a 100-year floodplain and would therefore not impede or redirect flood flows. As stated above, the project site is not located in a mapped 100-year floodplain.

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

-
- | | |
|----|--|
| 4) | In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? [Same Impact as Approved Project (Less than Significant Impact)] |
|----|--|
-

Dam Hazards

The site is within the Lexington Dam failure inundation zone. The potential for dam failure is reduced by several regulatory inspection programs and the risk to people and property, if dam failure were to occur, is reduced by local hazard mitigation planning. Implementation of the proposed project would not release pollutants as the site is not subject to substantial flood hazards.

Seiches, Tsunamis, and Mudflows

The project site is not located near a large body of water nor hillsides and is therefore not subject to inundation by seiches, tsunamis, or mudflows.

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

-
- | | |
|----|--|
| 5) | Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? [Same Impact as Approved Project (Less than Significant Impact)] |
|----|--|
-

The project proposes stormwater treatment controls consistent with the MRP and would not obstruct implementation of the Basin Plan. The project would floodproof the proposed subgrade parking garage to avoid the need for groundwater pumping on an ongoing basis. The project is not located in a groundwater recharge zone and would otherwise have no effect on groundwater management.

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

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Regional

Santa Clara Valley Habitat Plan

As described in *Section 4.4 Biological Resources* of this Initial Study, the Santa Clara Valley Habitat Plan is a conservation program that has been developed to promote the recovery of endangered species while accommodating planned growth on 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 in an area designated as *Urban-Suburban* in the Habitat Plan, which means it is not considered habitat for any special status species.

City of San José

DSAP Design Guidelines

The DSAP contains design guidelines to assist the City with the review of future development and implementation of public improvement projects within the DSAP area. The design guidelines are intended to facilitate development in a financially viable manner that is consistent with the long-term vision of the DSAP and achieves current City policies. The DSAP design guidelines are generally consistent with General Plan policies and actions intended to guide development in Downtown.

The design guidelines are separated into three categories: 1) Built Form, 2) Open Space Network, and 3) Streetscape. The Built Form guidelines generally apply to private development sites (such as the project site). The Open Space and Streetscape guidelines are primarily directed at public improvements that would be implemented as part of future development or as public improvement projects.

The Built Form guidelines include standards and recommendations for site planning and building design, including maximum building heights based on location within the DSAP. According to the guidelines, new development should be oriented to the street, incorporate active ground floor uses, and provide direct connections for pedestrians and bicyclists through pathways that connect to the public street and open space networks. The Built Form guidelines and the design guidelines call for “sustainable site planning” through the integration of natural assets and green building practices (e.g., on-site stormwater collection systems).

Overall, the design guidelines are intended to create a transit-oriented, pedestrian/bicycle-friendly environment with a vibrant urban character in a manner that maximizes compatibility between new and existing uses.

The guidelines describe the envisioned design of the DSAP at full build-out. The application of the guidelines are intended to be flexible to reflect unique challenges, development opportunities, and market conditions.

Envision San José 2040 General Plan

The 2040 General Plan includes numerous policies and actions aimed at avoiding or mitigating an environmental effect, as listed in the applicable sections of this EIR. Relevant policies adopted for the purpose of avoiding or mitigating land use impacts are summarized in the following table.

General Plan Policies - Land Use	
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-2.3	<p>Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.</p> <ol style="list-style-type: none"> 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
Policy CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

General Plan Policies - Land Use	
Policy CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City’s Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.
Policy LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

4.11.1.2 Existing Land Uses

The approximately 0.86-acre project site is located on the southeast corner of Stockton Avenue and West Julian Street. The project site is currently vacant and serves as a parking lot.

4.11.1.3 Surrounding Land Uses

The project site is located in an area developed with a mix of older commercial and light industrial buildings. The project site is bordered by railroad tracks to the north and is adjacent to a large parking lot for the SAP Center to the northeast, across the railroad tracks. Single-story commercial uses are located adjacent to the property to the southeast. To the southwest, the project site is bounded by Stockton Avenue followed by one-story, commercial uses. To the northwest, the project site is adjacent to the West Julian Street Underpass and Julian Street Bridge. The property located to the northwest, beyond the Stockton Avenue and West Julian Street intersection, is currently under construction for a seven-story mixed use building with residences and ground floor retail.

4.11.1.4 General Plan and Zoning

Envision San José 2040 General Plan

The San José 2040 General Plan is an adopted statement of goals and polices for the future character and quality of development in the community as a whole. The project site has a General Plan land use designation of *Urban Village* and is located within the Downtown Growth Area. The Downtown Growth Area is intended as a regional job center with continued development of high-rises to support regional transit use.

The *Urban Village* designation is applied within the Urban Village areas that are planned in the current General Plan Horizon to accommodate higher density housing growth along with a significant amount of job growth. This designation is also applied in some cases to specific sites within Urban Village Area Boundaries that have received entitlements for Urban Village type

development. This designation supports a wide variety of commercial, residential, institutional or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept.

Development within the *Urban Village* designation should conform to land use and design standards established with an adopted Urban Village Plan, which specifies how each Urban Village will accommodate the planned housing and job growth capacity within the identified Urban Village Growth Area. Prior to preparation of an Urban Village Plan, this designation supports uses consistent with those of the Neighborhood Community Commercial designation, as well as development of Signature Projects as described in the Envision General Plan Implementation policies. Following preparation of an Urban Village Plan, the appropriate use for a site will be commercial, residential, mixed-use, public facility or other use as indicated within the Urban Village plan as well as those uses supported by the Neighborhood/Community Commercial designation.

Zoning Ordinance

The project site is zoned *Heavy Industrial- HI*, which allows for industrial users with nuisance or hazardous characteristics. Office and research and development uses are discouraged under this designation in order to reserve development sites for traditional industrial activities, such as heavy and light manufacturing and warehousing. The *Heavy Industrial* designation is also the appropriate category for solid waste transfer and processing stations, if those sites meet other Envision General Plan policies. The proposed residential use is not allowed under the existing *Heavy Industrial* zoning district.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
<hr/>					
Would the project:					
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

1) **Would the project physically divide an established community? [Same Impact as Approved Project (Less Than Significant Impact)]**

Impacts to an established community can occur if the project physically divides a community. The project site is located in Downtown San José in an area developed with commercial and light industrial uses. The project is bounded by West Julian Street to the northwest and Stockton Avenue to the southwest.

The project proposes a nine-story, 303-room hotel and 19 residential condominiums on an existing parcel. A new sidewalk is proposed along the project frontage on Stockton Avenue which would provide pedestrian access to the proposed hotel and condominiums. A driveway onto Stockton Avenue would provide access to the parking garage. The layout and design of the proposed project does not include any features that would physically divide the surrounding community. **[Same Impact as Approved Project (Less than Significant Impact)]**

2) **Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? [Same Impact as Approved Project (Less Than Significant Impact)]**

The project site is located within the Airport Influence Area (AIA) established by the Santa Clara County Airport Land Use Commission (ALUC) in its Comprehensive Land Use Plan (CLUP) for the San José International Airport. The CLUP sets forth standards and policies for land use development compatibility within the AIA.

The proposed project complies with the CLUP's height, safety, and noise policies (see *Section 4.9 Hazards and Hazardous Materials* and *Section 4.13 Noise and Vibration*), and will be required to dedicate an aviation easement to the City as a condition of development in compliance with CLUP policy. Thus, the proposed project would be in conformance with the CLUP.

The project proposes to construct 19 residential condominiums and a 303-room hotel within the DSAP and Downtown Strategy 2040 planning area. The proposed project is an allowed use under the existing land use designation of *Urban Village*, which was identified as a Growth Area for new housing under the Downtown Strategy 2040. This land use designation supports a floor area ratio (FAR) of up to 10.0 and a residential density of up to 250 dwelling units to the acre. The *Urban Village* land use designation within the DSAP has a minimum commercial FAR of 0.5 for projects containing residential uses. This designation would therefore only support residential development in a vertical or horizontal mixed-use format that includes commercial uses or square footage that is equal to or greater than a 0.5 FAR for a given project. The project is consistent with the *Urban Village* land use designation. The *Urban Village* designation promotes the development of active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals.

The project proposes a conventional rezoning from *HI - Heavy Industrial* zoning district to *DC - Downtown Primary Commercial* zoning district and a Special Use Permit for the proposed building. The project, therefore, would conform to the Downtown Commercial Zoning standards. The proposed active ground floor uses, building orientation, and multi-modal facilities are consistent with the DSAP design guidelines, Downtown Strategy 2040 and Downtown Commercial zoning standards.

The proposed residential and housing project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 3) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

According to the Downtown Strategy 2040 FEIR, the City of San José identifies significant shade and shadow impacts as occurring when a building or other structure located in the Downtown area substantially reduces natural sunlight on public open spaces, measured on winter solstice when the sun is lowest in the sky (December 21st); the spring equinox, when day and night are approximately equal in length (March 21st); and the summer solstice when the sun is at its highest point in the sky (June 21st). There are six major open space areas in Downtown San José that are particularly sensitive to shade and shadow impacts: St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park and McEnery Park. The proposed project is not located adjacent to these open space areas and, therefore, would not have a significant shade and shadow effect on public open spaces. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

The City of San José contains mineral resources including construction aggregate deposits such as sand, gravel, and crushed stone. Communications Hill, in central San José, is the only area that is designated as containing mineral deposits of regional significance by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975. The project site is located approximately 2.5 miles north of Communications Hill and, therefore, does not contain known mineral resources.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
1) 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"/>

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
2) 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"/>

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

1) Would the project result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state? **[Same Impact as Approved Project (No Impact)]**

As discussed above, the project site is not located in an area containing known mineral resources. **[Same Impact as Approved Project (No Impact)]**

2) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? **[Same Impact as Approved Project (No Impact)]**

As stated in checklist response 1), the project site is not located in an area containing known mineral resources and, therefore, project implementation would not result in the loss of locally important mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

The following discussion is based upon a Noise and Vibration Assessment prepared by *RGD Acoustics* in August 2019. A copy of this report is attached as Appendix E of this Initial Study.

4.13.1 Environmental Setting

4.13.1.1 *Noise Overview*

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are almost always expressed using one of several noise averaging methods, such as L_{eq} , DNL, or CNEL.⁴⁵ Using one of these descriptors is a way for a location’s overall noise exposure to be measured, given that there are specific moments when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

4.13.1.2 *Vibration Overview*

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

4.13.1.3 *Regulatory Background*

Federal

Federal Transit Administration (FTA) Vibration Limits

The US Department of Transportation (DOT) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact

⁴⁵ L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 p.m. and 7:00 a.m. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 p.m. and 10:00 p.m. As a general rule of thumb where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq} .

criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.13-1, below. Note that there are criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day).

Table 4.13-1: Groundborne Vibration Impact Criteria			
Land Use Category	Groundborne Vibration Impact Levels (VdB re 1 μinch/sec, RMS)		
	Frequent Events¹	Occasional Events²	Infrequent Events³
Category 1: Buildings where vibration would interfere with interior operations	65 VdB ⁴	65 VdB ⁴	65 VdB ⁴
Category 2: Residences and buildings where people normally sleep	72 VdB	75 VdB	80 VdB
Category 3: Institutional land uses with primarily daytime use	75 VdB	78 VdB	83 VdB
1. Frequent Events - More than 70 vibration events from the same source per day, most rapid transit projects fall into this category 2. Occasional Events - Between 30 and 70 vibration events from the same source per day, most commuter trunk lines have this many operations 3. Infrequent Events – Fewer than 30 vibration events of the same kind per day, includes most commuter rail branch lines. 4. This criterion limit is based on levels that are acceptable for most moderately sensitive equipment, such as optical microscopes. Vibration sensitive manufacturing or research requires evaluation to define acceptable vibration levels.			

State

California Building Standards Code

The California Building Standards Code (CBC) establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 dBA DNL or CNEL in any habitable room, including hotel rooms. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, industrial source or fixed-guideway noise source.

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 4.13-2 below.

Table 4.13-2: General Plan Land Use Compatibility Guidelines (GP Table EC-1)						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care						
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						
<p>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.</p> <p>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.</p> <p>Unacceptable:  New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.</p>						

In addition, various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

General Plan Policies - Noise and Vibration	
Policy EC-1.1	<p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: <ul style="list-style-type: none"> 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. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.

General Plan Policies - Noise and Vibration	
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> • 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	<p>New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.</p>
Policy EC-1.7	<p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. <p>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.</p>
Policy EC-1.9	<p>Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.</p>
Policy EC-2.1	<p>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 experienced by residents and vibration sensitive uses would not exceed these guidelines.</p>

General Plan Policies - Noise and Vibration	
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

4.13.1.4 Existing Conditions

Ambient Noise

The existing noise environment at the project site results primarily from vehicular traffic on surrounding streets, railroad train pass-bys, mechanical noise equipment from the adjacent building, and aircraft approaching or departing from the Norman Y. Mineta San José International Airport. Existing noise levels were quantified by long-term, two day, measurements at four locations (LT-1 to LT-4) and short-term noise measurements at nine locations (ST-1 to ST-9). The noise measurement locations were chosen to document the noise exposure from rail operations, various roadways around the project site, and existing mechanical equipment noise from the adjacent building to the south. The measurement locations are shown in Figure 4.13-1.

Along the eastern portions of the site near the railroad tracks (e.g. Locations LT-1 and LT-4), the dominant noise source was train pass-bys. At these locations, the noise from the nearby roads and aircraft were minor compared to the train noise. Noise levels at these locations ranged from 71 to 76 DNL.

Along the western portions of the site near the traffic intersection (e.g. LT-3, ST-5, and ST-4), the dominant noise source was local vehicular traffic. At these locations, the noise from the trains did not significantly affect the measured average noise levels. Along the project’s south property line at a height of approximately 30 feet above ground (ST-6 to ST-9), the dominant noise source was mechanical equipment from the neighboring building. At these locations, the measured noise level was relatively steady and traffic was not a significant noise source.

The noise on-site from passing trains generated a typical maximum instantaneous noise level between 72 to 88 dBA. Based on the on-site observations, trains generally do not sound their horns. However, trains sounding their horns near the monitor were measured to generate typical maximum noise levels up to 93 dBA.

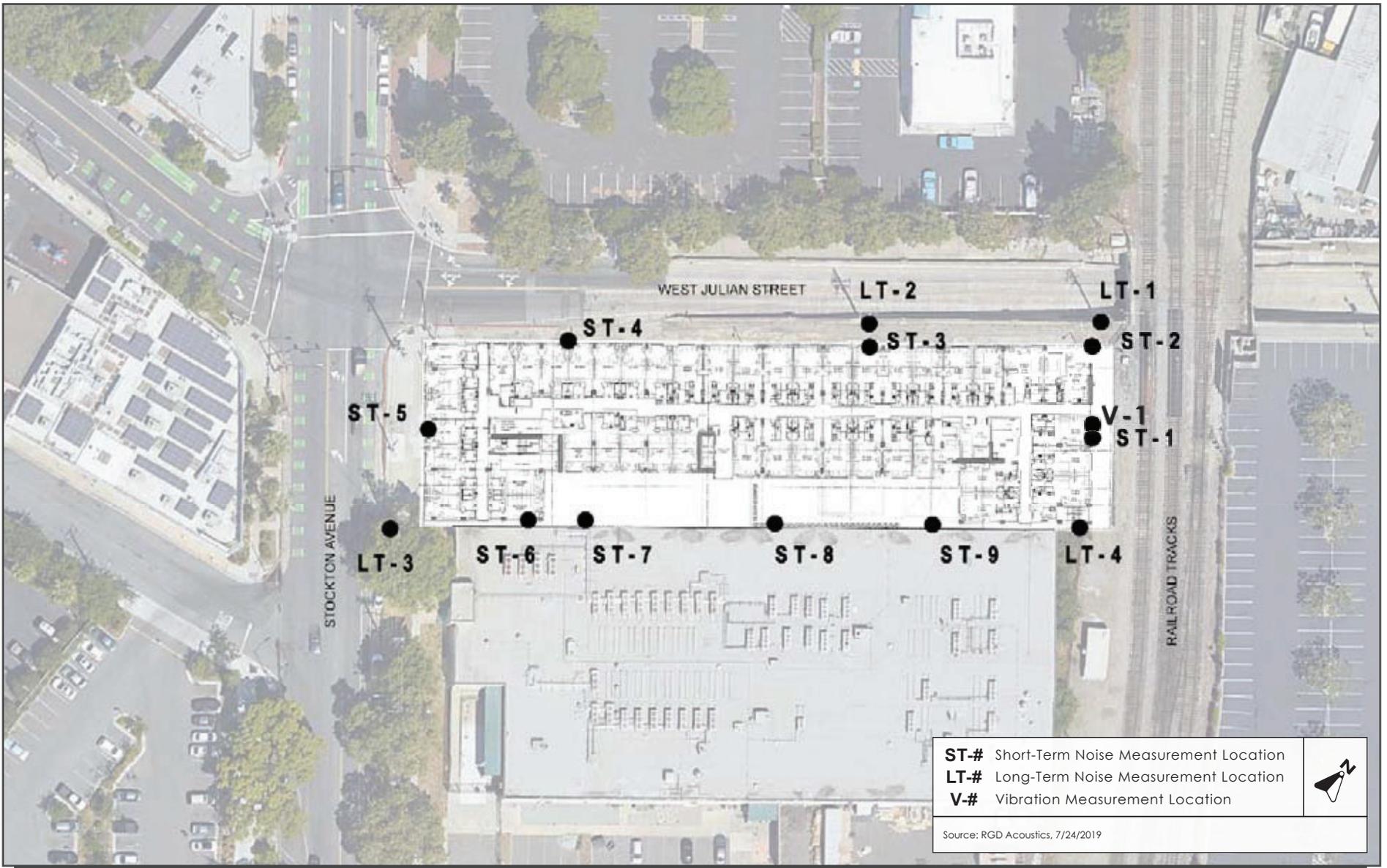
Based on the Norman Y. Mineta San José International Airport Comprehensive Land Use Plan (CLUP), the project site is located outside of the 65 CNEL noise contour. According to the City’s

current and projected noise contours for San José International Airport, the project site is located outside the future CNEL 65 dBA noise contour.

Groundborne Vibration

Ground-borne vibration generated by train pass-bys can propagate into nearby buildings and cause perceptible vibration in the floors and walls of dwelling units. This perceptible vibration can cause annoyance to the residents. The City's General Plan Policy EC-2.1 adopts the vibration impact criteria published by Federal Transit Administration (FTA). The policy requires new development within 100 feet of rail lines to demonstrate, prior to project approval, that vibration experienced by residents and vibration sensitive uses would not exceed the FTA guidelines.

The FTA vibration impact criteria were developed for assessing new transit systems near existing land use. Table 4.13-1, above, lists the impact levels for various land uses depending on how often the events occur. The FTA considers an impact to occur when the vibration velocity level inside a residence or hotel from frequent events (70 or more events per day) exceeds 72 VdB². The impact levels are less stringent for less sensitive land uses or for fewer events per day.



NOISE AND VIBRATION MEASUREMENT LOCATIONS

FIGURE 4.13-1

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project result in:					
1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3 dBA noise level increase is considered the minimum increase that is perceptible to the human ear.

Typically, project generated noise level increases of 3 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of 5 dBA DNL or greater is considered significant.

City of San José Standards

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

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3 dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level, or 5 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 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structurally sound but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of two mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

Noise Impacts

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

-
- | | |
|----|--|
| 1) | Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? [Same Impact as Approved Project (Significant Unavoidable Impact)] |
|----|--|
-

The existing noise environment at the project site exceeds the City’s exterior noise goal of 60 dBA DNL for residential uses as a result of transportation noise sources in the project area (i.e., local traffic, railroad pass-bys, and aircraft) and Downtown activities. The project proposes to construct a 303-room hotel with 19 residential condominiums on the top two floors of the building. Operational noise generated by the proposed project would be the result of vehicles traveling to and from the site and the project rooftop heating, ventilation, and air conditioning (HVAC) equipment. The project site is currently undeveloped and serves as a parking lot; as a result, the noise generated by existing operations on the project site currently contribute on a limited basis to the ambient noise environment.

HVAC System

Consistent with existing City policy and as required under the City's Zoning Ordinance, the project HVAC system would be reviewed by City Staff to verify that the noise generated by the HVAC system would not exceed 60 dBA L_{eq} at commercial property lines, respectively. Because ambient noise levels in the project area are relatively high and noise levels generated by the project HVAC system would meet the requirements set forth under the City's Zoning Ordinance, the noise generated by the project HVAC system would not noticeably increase ambient noise levels in the project area.

Project-Generated Traffic

The project would increase the density of residential and hotel uses on the project site; as a result, traffic volumes in the project area would incrementally increase (see *Section 4.16 Transportation* of this Initial Study). The project area is exposed to noise from vehicles traveling on Stockton Avenue and West Julian Street. Existing traffic volumes on these roadways are high. Typically, roadway traffic volumes must double to result in a noticeable (i.e., 3 dBA) noise increase. Project-generated traffic would travel to and from the project site using Stockton Avenue and West Julian Street. Existing roadway volumes in the project area would not double as a result of project-generated traffic. Therefore, roadway noise levels would not increase perceptibly (i.e. 3 dBA or more), and project-generated traffic would not result in a significant noise impact.

As described in the DSAP PEIR, traffic from the proposed project, in combination with other future redevelopment under the DSAP would substantially increase noise levels at existing noise-sensitive uses along segments of Julian Street, which are north of the project site. This is the same impact that is identified in the certified DSAP PEIR.

Construction Noise

Construction of the proposed project would generate noise and would temporarily increase noise levels at nearby commercial/residential uses. The significance of noise impacts during construction and demolition depend on the type of construction equipment in use, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors.

Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used. Typical hourly average construction noise levels are about 75 to 80 dBA measured at a distance of 100 feet from the center of the site during busy construction periods (e.g. earth moving equipment, impact tools, etc.). Construction noise levels drop off at a rate of about 6 dBA per doubling of distance between the source and receptor.

Construction noise impacts are greatest when construction occurs during noise-sensitive times of the day (early morning, evening, or nighttime hours), when the construction occurs in areas immediately adjoining noise sensitive land uses, or when the duration of construction extends for a long period of time. Construction of the proposed project would take approximately six months to complete. Construction activities would be audible at the existing commercial and residential uses in the vicinity of the project site. Because the duration of substantial noise generating activities would be less than 12 months and the project includes measures to reduce construction noise (see below), the construction noise impact is considered less than significant.

Standard Permit Conditions:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., 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.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or 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.
- Prohibit unnecessary idling of internal combustion engines.
- 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.
- 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.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall 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 shall 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 it in the notice sent to neighbors regarding the construction schedule.

Standard Permit Condition:

- A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City’s 60 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval before a grading permit is obtained.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

-
- 2) Generation of excessive groundborne vibration or groundborne noise levels?
[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]
-

Construction Vibration

Policy EC-2.3 of the 2040 General Plan establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. Since the time the 2040 General Plan was adopted in 2011, the California Department of Transportation published a Transportation and Construction Guidance Manual in 2013. The Manual developed a synthesis of various vibration criteria to assess the damage potential for representative categories of structures and effects upon people.

The guideline criteria, summarized in Table 4.13-3 below, refine the categories and thresholds set forth in Policy EC-2.3, establishing seven separate categories. The first two categories (Categories 1 and 2) address human perceptibility of vibration only. The five remaining categories (Categories 3-7) address human perceptibility and potential for damage to buildings described as “Extremely fragile historic buildings, ruins, ancient monuments,” “Fragile buildings,” “Historic and some old buildings,” “Older residential structures,” “New residential structures,” and “Modern industrial/commercial buildings.” Most, if not all buildings in the downtown area would fall into Categories 5-7.

The goal in establishing vibration limits is to mitigate potential vibration impacts associated with demolition and construction activities to a less-than-significant level by establishing safe limits to protect structures from potential damage and to minimize vibration impacts on people and businesses. The vibration limits contained in Policy EC-2.3 utilized criteria from literature available to the City in 2011 that are conservative, and given the broad categories, are now believed to be too general for buildings in the Downtown Strategy 2040 Plan area. Given that the new guideline criteria best accomplish the goal to identify and mitigate construction vibration impacts, these criteria will be utilized to implement 2040 General Plan Policy EC-2.3 for projects facilitated by the Downtown Strategy 2040, such as the proposed project.

Table 4.13-3: Construction Vibration Threshold Criteria			
Category	Continuous PPV at affected building (in/sec)	Human Reaction	Effect on Buildings
1	0.01	Barely perceptible	No effect
2	0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
3	0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of the vibration to which ruins and ancient monuments should be subjected
4	0.1	Strongly perceptible	Threshold at which there is a risk of cosmetic damage to fragile buildings with no risk of cosmetic damage to most buildings
5	0.25	Strongly perceptible to severe	Threshold at which there is a risk of damage to historic and some old buildings

Table 4.13-3: Construction Vibration Threshold Criteria			
Category	Continuous PPV at affected building (in/sec)	Human Reaction	Effect on Buildings
6	0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential structures
7	0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to new residential and modern commercial /industrial structures
Source: Transportation and Construction Vibration Guidance Manual, California Department of Transportation, September 2013.			

For projects that produce vibration levels falling under Categories 1 and 2, the primary issue related to construction vibration is human perceptibility and the potential for annoyance. Vibration levels may be perceptible, however, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

For projects that produce vibration levels exceeding the thresholds for Categories 3-7, construction vibration has the potential to cause damage, depending on the age and fragility of the affected buildings. The West Julian Street Underpass is adjacent to the project and is considered a Category 4 structure per Table 4.13-3 above. As a result, various construction activities associated with the project, including a vibratory roller and clam shovel drop, may exceed the vibration PPV threshold of 0.1 in/sec for a Category 4 structure. However, with the implementation of the standard measures per the Downtown Strategy 2040, MM NOI-1.1, and MM CUL-1.1 through -1.3, impacts to the West Julian Street Underpass from construction vibration would be reduced to a less than significant level.

The adjacent building located at 250 Stockton Avenue shares a common property line with the project site and is currently occupied by a data center business. In addition to the potential for cosmetic damage to building, groundborne vibration could interfere with the operation of the computer and data storage equipment. According to the FTA's guidance manual, a vibration level of 78 VdB is the threshold for assessing vibration impacts on computer equipment. Based on the FTA's methodology of converting between PPV and RMS, the vibration criteria of 78 VdB corresponds to approximately PPV 0.032 inch/sec.

According to the City's General Plan policy, the vibration threshold for historic structures is a PPV of 0.08 in/sec. Many of the construction vibration sources, including a large bulldozer, drilling and a vibratory roller generate a level greater than this threshold at a distance of 25 feet. The West Julian Street Underpass, particularly the railroad bridge, is currently exposed to frequent vibration from railroad trains and heavy trucks. The vibration levels generated by freight and passenger trains are likely greater than the General Plan's vibration threshold for historic structures. However, since construction grading and foundation work would be as close as 14 feet from the underpass structure, there is a potential for construction activities to exceed the thresholds for potential cosmetic damage to historic structures.

Impact NOI-1: Construction activity associated with the proposed project may impact adjacent structures including the West Julian Street Underpass and the data center facility. **(Significant Impact)**

Mitigation Measures

MM NOI-1.1: The project applicant shall submit a construction vibration mitigation plan prepared by an acoustical and/or structural engineer and other appropriate qualified professional such as a historic preservation professional for City review and approval that establishes levels of ground vibration that could damage the structure and/or substantially interfere with activities at the West Julian Street Underpass and the 250 Stockton Avenue (data center). Common thresholds include, for sensitive historic structures, a vibration limit of 0.08 inches/second PPV to minimize the potential for cosmetic damage to a building and a vibration limit of 0.2 inches/second PPV to minimize the potential for cosmetic damage at buildings of normal conventional construction. The level at which ground vibration would significantly affect data center operations shall be based on appropriate published guidelines or equipment manufacturer’s specifications for the data center equipment. The construction vibration mitigation plan shall define means and methods of construction that shall be utilized in order to not exceed the thresholds and shall be reviewed by the Director of Planning, Building, and Code Enforcement Department or the Director’s designee prior to issuance of a grading permit. To ensure that vibration levels do not exceed the established thresholds, the project sponsor shall monitor vibration levels at each structure and shall prohibit vibratory construction activities that generate vibration levels in excess of the thresholds. Protocols for responding to elevated vibration levels that cause damage or operational interference would include stopping work and repairing damage to the structures. Baseline and construction period inspections of the West Julian Street Underpass historic features shall be conducted as per the requirements of the Cultural Resources mitigation measures.

With the implementation of MM NOI-1.1, impacts from groundborne vibration to the Julian Street Underpass and adjacent data center building would be less than significant.

[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]

-
- 3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

The project site is located within the projected 60-65 dBA aircraft noise contour. The adopted Comprehensive Land Use Plan (CLUP) for Norman Y. Mineta San José International Airport ALUC considers the aircraft noise exposure to be “conditionally acceptable” for condominium development and generally acceptable for hotel development. Similar to the City’s requirement, development in sites exposed to “conditionally acceptable” aircraft noise levels should be undertaken only after a detailed analysis of the noise reduction is made and needed insulation features included in the design. Additionally, since the project site is in the Airport Influence Area and exposed to an overall exterior noise levels greater than 65 dB CNEL, the property owner shall include a statement in the rental/lease agreement noting the area is subject to high noise in a manner consistent with the current state law including AB2776 (CLUP Policy N-5). **[Same Impact as Approved Project (Less than Significant Impact)]**

4.13.3 Non-CEQA Effects

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

As previously discussed in *Section 4.0* of this Initial Study, on December 17, 2015, the California Supreme Court issued an opinion in “*CBIA v. BAAQMD*” holding that CEQA is primarily concerned with the impacts of the 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. In light of this ruling, the effect of existing ambient noise or groundborne vibration on future users or residents of the project would not be considered an impact under CEQA. General Plan Polices under Goal EC-1 (EC-1.1-1.7), however, require that existing ambient noise levels be analyzed for new residences, office buildings, business commercial, or professional offices and that noise attenuation be incorporated into the project in order to bring interior and exterior noise levels down to acceptable levels. The analysis of noise exposure for future project residents discloses information on the project’s compliance with General Plan polices.

Exterior and Interior Noise Impacts to the Project

The existing noise environment at the project site results primarily from vehicular traffic on surrounding streets, aircraft approaching or departing from the Norman Y. Mineta San José International Airport, train pass-bys, and neighboring mechanical equipment.

Based on the noise measurements, future traffic, and future aircraft, the noise exposure at the project building due to a combination of traffic, train, and aircraft, will be up to a DNL 75 dBA at the façade facing the railroad tracks, a DNL 73 dBA at the façade facing West Julian Street, a DNL 71 dBA at the façade facing Stockton Avenue, and a DNL 78 dBA at the south façade overlooking the adjacent building’s mechanical equipment. According to the City’s Land Use Compatibility Guidelines, a noise exposure above DNL 75 dBA is considered “unacceptable” for residential and hotel development and new development “should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies”. A noise exposure between DNL 70 and 75 dBA is considered “conditionally acceptable” and “specified land use may be permitted only after

detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.”

As discussed in the DSAP PEIR, residential development may be located in areas with conditionally acceptable noise levels (i.e., 60-75 dBA DNL) for residential and hotel uses. Residential/hotel development on the project site would be subject to the interior noise level objective of 45 dBA DNL. Because the project site is within the Downtown Core, the exterior noise level objective of 60 dBA DNL does not apply to development on the project site. In addition, single-event noise sources such as planned/existing rail lines and aircraft operations would also be subject to the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms (Policy EC-1.9). Interior noise levels within the proposed dwelling units could exceed the City’s 45 dBA DNL noise level standard and the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms. Meeting the California Green Building Code (CalGreen) performance standard of interior hourly L_{eq} 50 dBA at the non-residential portions of the building will generally require less noise insulation than at the residential portion of the building. As described below, the proposed project includes measures to reduce interior noise levels to an acceptable level.

Standard Permit Conditions: Consistent with the requirements for future development under the DSAP and California Building Code, the following measures shall be implemented to reduce interior noise levels to 45 dBA DNL for the residential portions and hotel rooms or 50 dBA DNL or lower for the non-residential portions and achieve the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms:

- A site-specific noise analysis by an acoustical consultant shall be required to verify consistency with the City’s noise standards and identify necessary design features and noise reduction measures, based on projected General Plan traffic volumes. Projections of future noise exposure would also take into account existing and planned commercial/industrial operations and transit facilities.
- Where exterior day-night average noise levels are 60 to 70 dBA DNL, the project applicant shall ensure that interior noise levels are maintained below 45 dBA DNL by incorporating adequate forced air mechanical ventilation systems in the dwelling units and hotel rooms, which allow residents and visitors the option of controlling noise by keeping the windows closed. In areas with noise levels exceeding 70 dBA DNL, the project applicant shall include windows and doors with high Sound Transmission Class (STC) ratings necessary to meet the interior noise standard of 45 dBA DNL.

Vibration Impacts to the Project

The FTA’s guidance manual provides a methodology to estimate future vibration levels in a building from rail vibration sources. Factors accounted for by this procedure include building structure type, building foundations type, attenuation and dispersion of vibration energy as it propagates through a building (i.e. upper floor typically experience lower vibration levels than lower floors), amplification due to resonances of floors, walls and ceilings. These factors were applied to the measured railroad ground vibration levels to calculate the interior vibration levels in the project building. The vibration levels expected in the 2nd floor guestrooms along the side of the building closest to the tracks are 6 VdB.

Based on the FTA methodology, the maximum vibration levels on the 2nd floor of the building (the lowest floor level with guest rooms) were calculated. The expected frequency in a day was based on the vibration measurements. The vibration levels on the floors above the second floor will be less, as will be the vibration level at locations farther from the railroad tracks.

The predicted indoor vibration levels are less than the FTA impact criteria for frequent events and occasional events of 72 VdB and 75 VdB, respectively. The calculated vibration level for infrequent events is predicted to be up to 83 VdB which exceeds the impact criterion of 80 VdB. This exceedance is expected to occur three times per day.

The events with the highest vibration levels are freight train passbys. Since the FTA criteria were developed for transit trains which have a relatively brief passby duration, the FTA suggests that when assessing vibration from freight trains, it is appropriate to assess the locomotive passby separately from the long duration of the railcar passby. According to the FTA, it is more appropriate to use the “frequent events” criterion of 72 VdB for the long duration of the passby of freight train railcars. Table 4.13-4 shows the vibration levels from the locomotive and the railcars separately. This data indicates that the railcars exceed the 72 VdB criteria nine times per day.

Table 4.13-4: Summary of Freight Train Generated Vibration Sample Levels Calculated for the 2nd Floor				
Date	Time of Day	Vibration Level (VdB)		Comment
		Locomotive	Railcars	
4/23/2018	4:59 PM	77	76	---
	8:50 PM	80	68	Train stopped in front of site.
	8:57 PM	69	72	
5/22/2018	7:37 PM	81	78	---
	9:45 PM	82	81	---
	11:26 PM	80	78	With Caltrain on near track.
5/23/2018	3:35 AM	83	78	---
	1:36 PM	77	77	---
	2:27 PM	70	75	Train coming to stop near site, then going in reverse.
	2:29 PM	76	75	
	2:31 PM	73	78	---

The vibration levels will decrease with distance from the railroad tracks and height above the ground. Therefore, the majority of the spaces in the building would have vibration level below the impact thresholds. However, some areas close to the tracks and on the lower floors are expected to be exposed to vibration levels that exceed the FTA standards. It should be noted that the FTA criteria were developed to assess the impact of new transit systems on existing land uses. This means that the use of these criteria tend to be conservative for assessing the impact of existing rail activities on new

construction where the future occupants expect to experience perceptible vibration. The vibration levels on the first floor are not expected to exceed the vibration criteria for institutional uses during passenger train passbys and the freight train locomotives.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

In order to attain the state housing goal, cities must make sufficient suitable land available for residential development, as documented in an inventory, to accommodate their share of regional housing needs. California’s Housing Element Law requires all cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.⁴⁶

Regional

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

Plan Bay Area 2040 is a state-mandated, integrated long-range transportation, land-use and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

City of San José

Envision San José 2040 General Plan

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

General Plan Policies - Population and Housing	
General Plan Phasing / Planning Horizons/ Major Review Policies	
Policy IP-2.1	Gradually implement the development of new Urban Village areas by dividing them into three Plan Horizons and allowing a specific portion of the Urban Village areas to be developed within each Horizon. Identify the locations of current Plan Horizon Urban Villages presently available for residential development on the Land Use/Transportation Diagram.
Policy IP-2.4	Conduct a Major Review of this 2040 General Plan by the City Council every four years to evaluate the City’s achievement of key economic development, fiscal and

⁴⁶ “Regional Housing Needs Allocation and Housing Elements” Accessed April 27, 2018. <http://hcd.ca.gov/community-development/housing-element/index.shtml>.

General Plan Policies - Population and Housing	
	infrastructure/service goals, greenhouse gas emission reduction goals and targets, water conservation and recycling goals, availability and affordability of housing supply, Healthful Community goals, and review changes and trends in land use and development. Based on this review, determine the City’s readiness to begin the next General Plan Horizon or to modify the number of “pool” residential units available for non-specific Urban Village areas within the current Plan Horizon. Amend the Land Use/Transportation Diagram and/or 2040 General Plan goals, policies, and actions accordingly.
Policy IP-10	Open Horizons for development in planned phases to give priority for new residential growth to occur in areas proximate to Downtown, with access to existing and planned transit facilities, and adequate infrastructure to support intensification, and proximate to other Growth Areas to contribute to the City’s urban form.
General Plan Annual Review and Measurable Sustainability	
Policy IP-3.2	<p>As part of the 2040 General Plan Annual Review, carefully monitor the jobs-to-employed resident ratio and, as a minimum, consider the following current development trends:</p> <ul style="list-style-type: none"> • Vacant land absorption; • Amount of residential and economic development; • Amount and value of non-residential construction; • Number and types of housing units authorized by building permit, including number of affordable units, and development activity level in zonings, development permits, annexations and building permits; • Status and current capacity of major infrastructure systems which are addressed in General Plan Level of Service policies (transportation, sanitary sewers and sewage treatment); • Transit-ridership statistics and other measures of peak-hour diversion from single occupant vehicles; • Status and implementation of Green Vision, General Plan policies, and other greenhouse gas reduction strategy measures, including greenhouse gas emission reductions compared to baseline and/or business-as-usual; and • Levels of police, fire, parks and library services being provided by the City.
Housing Development	
Policy IP-19.1	Through a Major General Plan Review or, as needed, through the Annual General Plan review process, evaluate the Plan’s consistency with housing development goals as determined by the State and regional agencies and take actions as necessary to address their requirements.

Diridon Station Area Plan

The DSAP plans for up to 2,588 dwelling units in two major clusters; between the east/west arterial streets of Park Avenue and San Carlos Street. A third, smaller housing cluster is planned for the area between The Alameda and Julian Street, west of the San José Arena. The DSAP plans for up to 900 hotel rooms approved as part of the Downtown Strategy 2040. The DSAP would accommodate up to 23,010 jobs.

4.14.1.2 Existing Conditions

The City of San José population was estimated to be approximately 1,051,316 with a total of 335,164 dwelling units in January 2018. The average number of persons per household in San José was estimated at 3.2.⁴⁷ The current average household size for the downtown area is 2.85 persons per household. The City has approximately 415,000 jobs and 468,100 employed residents.⁴⁸ Based on the City’s General Plan, the projected population in 2040 would be 1.3 million persons occupying 429,350 households. Within the DSAP area, there are approximately 1,430 existing residents and 1,680 existing employees.

The jobs/housing balance is the relationship between the number of dwelling units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. By 2035, San José could have 1.3 jobs per employed resident, which is a substantial change beyond the existing 0.8 to 1 ratio.

San José currently has a higher number of employed residents than jobs but this trend is projected to reverse with full build-out under the current General Plan.

4.14.2 Impact Discussion

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

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

⁴⁷ California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018 with 2010 Benchmark*. Available at: <<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>>. Accessed June 15, 2018.

⁴⁸ Association of Bay Area Governments. *Plan Bay Area Projections 2013*. December 2013.

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- 1) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

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

In the DSAP PEIR, proposed development levels within the DSAP were found to be consistent with the combined jobs and housing capacities established in the Envision San José 2040 General Plan for the Downtown, Midtown, and VT-4 Growth Areas. Proposed infrastructure expansion identified in the DSAP was also found to be consistent with projected Downtown Strategy 2040 growth. Subsequently, the DSAP was identified as neither directly nor indirectly inducing population growth within the plan area.

The project proposes to construct 19 residential condominiums and a 303-room hotel within the DSAP planning area, which would result in an increase of approximately 54 residents. The proposed project is within the defined capacity in the DSAP and Downtown Strategy 2040 Plan areas. The proposed project is an allowed use under the existing land use designation. The project site will also need to be rezoned from *HI – Heavy Industrial* to *DC - Downtown Primary Commercial* zoning district and a Special Use Permit to accommodate the proposed development. The hotel component of the project would result in temporary guests rather than permanent residents, and therefore would not increase the total population in the City. Since the residential component of the project is permitted under the DSAP, and would result in an incremental increase in population of approximately 54 residents, the proposed project would not result in a significant population or housing impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 2) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere? **[Less Impact Than Approved Project (No Impact)]**
-

The proposed project site is currently vacant and would add housing and a hotel to the site. Therefore, the project would not displace current residents or necessitate the need for the construction of replacement housing. **[Same Impact as Approved Project (No Impact)]**

4.15 PUBLIC SERVICES
4.15.1 Environmental Setting
4.15.1.1 *Regulatory Framework*

State

School Impact Fees

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act-California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

City of San José

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts associated with public facilities and services, as listed in the following table.

General Plan Policies - Public Facilities and Services	
Education	
Policy ES-1.9	Provide all pertinent information on 2040 General Plan amendments, rezonings and other development proposals to all affected school districts in a timely manner.
Law Enforcement and Fire Protection	
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.15.1.2 Existing Conditions

Fire and Police Services

Fire protection services in the project area are provided by the City of San José Fire Department (SJFD). The SJFD responds to approximately 74,000 calls for service each year, including all fires, hazardous material spills, and medical emergencies, from 33 fire stations around the City.⁴⁹ The fire station closest to the project site is SJFD Station 30 at 225 North Market Street, approximately 0.8-mile east of the project site.

Police protection services in the project area are provided by the City of San José Police Department (SJPD). The SJPD employs approximately 900 sworn police officers. Patrolling officers are dispatched from police headquarters, located at 201 West Mission Street, approximately 1.7 miles north of the project site. The SJPD also has three community policing centers, which are located in Alviso, at the Oakridge Mall, and on Williams Road; however, all three centers have been closed due to staffing constraints. Security for VTA bus and light rail facilities is provided by the Santa Clara County Sheriff's Office who also subcontracts some security services through VTA's Protective Services, a private security contractor.

Schools

The project site is located in the San José Unified School District (SJUSD). SJUSD includes 41 schools (25 elementary, two K-8 schools, six middle, six high schools and two alternative education programs) serving over 30,000 students in the pre-Kindergarten through 12th grades. The project site is within the Horace Mann Elementary School, Herbert Hoover Middle School, and Abraham Lincoln High School attendance boundaries assigned by the SJUSD. Horace Mann is located at 55 North Seventh Street, Herbert Hoover is located at 1635 Park Avenue, and Abraham Lincoln is located at 555 Dana Avenue. The DSAP PEIR found that each of these three schools were operating within their enrollment capacities. According to the SJUSD student generation factors, multi-family residential development generates 0.272 K-12 students per dwelling unit.⁵⁰

⁴⁹ City of San José. *Fire Department*. Available at: <<http://www.sanJoseca.gov/index.aspx?NID=197>>. Accessed August 4, 2018.

⁵⁰ San José Unified School District. *Development Fee Justification Study*. April 2014.

Parks

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks.⁵¹ The City also manages approximately community centers, 18 community gardens, and five pool facilities. Other recreational facilities include six public skate parks and over 54 miles of interconnected trails.

The closest public parks (within one-third mile) are the Theodore Lenzen Park, on the corner of Stockton Avenue and Lenzen Avenue, approximately 0.3-mile northwest of the site, and the Guadalupe River Park Trail, located approximately 1,000 feet northeast of the site. Guadalupe River Park and Gardens is a three-mile long park that runs adjacent the Guadalupe River in Downtown San José.⁵²

Nearby community centers include the Gardner Community Center (approximately 1.4 miles southeast of the site), and Northside Community Center (approximately 1.6 miles northeast of the site).

Libraries

The San José Public Library System consists of one main library, Dr. Martin Luther King Jr. Library that is jointly operated with San José State University and 23 branch libraries. Libraries near the project site include the Dr. Martin Luther King Jr. Main Library and Rose Garden Library, which are located approximately 1.5 miles east and west of the project site, respectively.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁵¹ City of San José. “Parks, Recreation, & Neighborhood Services”. Accessed September 29, 2018. Available at: <https://www.sanJoseca.gov/index.aspx?NID=204>

⁵² Guadalupe River Park Conservancy. “River Park & Gardens”. Accessed September 25, 2018. Available at: <http://www.grpg.org/river-park-gardens/>

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

-
- 1) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The DSAP and Downtown Strategy 2040 FEIRs found that future development under the Downtown Strategy 2040 would increase demand for fire protection services; however, this increased demand is not anticipated to require the construction of new fire stations, other than those already planned. Planned growth within the Downtown Strategy 2040 area was found not to result in a significant impact related to fire protection.

The project proposes to construct a nine-story, 303-room hotel and 19 residential condominium units on the project site. Since the project site is currently vacant, implementation of the proposed project would intensify the use of the site and generate additional residents in the area, which would incrementally increase the demand for fire service compared to existing conditions. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the DSAP. The project, by itself, would not preclude the SJFD from meeting its service goals and would not require the construction of new or expanded fire facilities.

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 to promote public and property safety. For these reasons, the proposed project would have no new or more significant impacts on fire protection services than identified in the DSAP PEIR or Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 2) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The DSAP and Downtown Strategy 2040 FEIRs found that there would be an increase in demand for police protection services in the plan area, which may result in the need for additional staff and equipment. Planned growth within the Downtown Strategy 2040 area was found not to result in a significant impact related to police protection.

The project proposes to construct a nine-story, 303-room hotel and 19 residential condominium units on the project site. Since the project site is currently vacant, implementation of the proposed project would intensify the use of the site and generate additional residents in the area, which would

incrementally increase the demand for police service compared to existing conditions. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total growth identified in the DSAP. The project, by itself, would not preclude the SJPD from meeting its service goals and would not require the construction of new or expanded police facilities.

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 to promote public and property safety. For these reasons, the proposed project would have no new or more significant impacts on police protection services than identified in the DSAP PEIR or Downtown Strategy 2040 FEIR.

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

-
- 3) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The DSAP PEIR found that existing schools serving the DSAP area may not have capacity to accommodate the projected increase in students from future residential development under the DSAP. Although implementation of the DSAP was found to contribute to increased demand for school facilities in the SJUSD, DSAP development is consistent with the Downtown Strategy 2040, and the Downtown Strategy 2040 FEIR found that the project would result in less than significant impacts to school facilities.

Development of the proposed project would incrementally increase the number of students in the project area. Based on a student generation rate of 0.272 K-12 students per unit, the proposed project, with the addition of 19 residential condominium units, is estimated to increase the student population in the project area by five new students.⁵³ The proposed project is part of planned growth in the City and would not increase the number of students in the SJUSD beyond what has been anticipated in the DSAP. The project would mitigate its impact on local schools through compliance with state law (Government Code Section 65996), including payment of school impact fees. The hotel component of the project would not have an impact on schools. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 4) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

⁵³ San José Unified School District. *Development Fee Justification Study*. April 2014.

The DSAP projected the residential population in the Plan area to increase to 5,450 with maximum-buildout of the DSAP. The DSAP PEIR concluded that with the City's service level objectives for parkland, residential development under the DSAP would generate a demand for an additional 19-acres of neighborhood-serving parkland and 2,725 square feet of community center space. The DSAP proposes the construction of parks and trails, which would help offset the current and future demand for recreational facilities in the plan area and surrounding neighborhoods. Furthermore, new residential development in the plan area is required to incorporate outdoor spaces and recreational amenities, in accordance with the General Plan Policy PR-1.9, the City's Residential Design Guidelines, and the DSAP Design Guidelines.

The proposed project residents would contribute to the overall DSAP demand for parkland. To offset the demand, the proposed project is required to pay the applicable PDO/PIO fees. The fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 mile 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. Additionally, the proposed project includes a 525 square-foot deck and a 706 square-foot common area on the ninth floor of the building that would be available to future tenants for passive recreational uses, which would offset some of the demand on existing park and recreational facilities resulting from the proposed project. The first floor of the hotel would include two terraces available for guests.

Implementation of the proposed project would not result in new or more significant impacts to park facilities than identified in the DSAP PEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 5) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The residents of the proposed project would incrementally increase the demand on neighborhood libraries, including Martin Luther King Jr. Main Library. The population growth resulting from the project was accounted for in the DSAP and Downtown Strategy 2040 FEIRs, which found that future growth under the Downtown Strategy 2040 would not result in a significant impact to libraries in the area.

As stated in checklist response 4) above, the project is the construction of a 303-room hotel and 19 residential condominiums. Visitors and residents of the proposed hotel and condominium project may use existing library facilities to some extent. However, the proposed project would not generate visitors or residents to such a degree that library and other public facilities would be impacted. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Quimby Act-California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

City of San José

Greenprint 2009 Update

In December 2009, the City Council adopted the *City of San José Greenprint 2009 Update*, which is the City's 20-year strategic plan for parks, recreational facilities, and programs. As part of the Greenprint and Green Vision, the City has identified two goals related to the trail network: 1) complete 100 miles of interconnected trails by 2022, and 2) complete 130 miles of the network by 2035.

The Greenprint identifies the Central/Downtown Planning Area as having the greatest parkland deficit, with a projected need for roughly 300 additional acres of neighborhood/community-serving parkland to meet the City's service objective by 2020.⁵⁴ Given its population density, the most practical strategy for increasing recreation amenities will be the development of privately owned pocket parks, plazas, and other small scale recreation facilities; however, completion of planned park facilities such as Del Monte Park and build-out of the Guadalupe River Park Master Plan will help offset the acreage needed.⁵⁵

According to the Greenprint, there are no areas in the Central/Downtown Planning area that are underserved by community centers, based on a three-mile radius from residential uses. The City is working on a major update of its existing Greenprint, called Activate San José.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-

⁵⁴ Given that the 2040 General Plan allows for additional growth in Downtown compared to the 2020 General Plan, the current need exceeds the previous estimates for parkland acreage identified in the Greenprint.

⁵⁵ City of San José. *Greenprint 2009 Update for Parks, Recreation Facilities and Trails*. 2009.

site. For projects over 50 units, it is the City’s decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed restricted affordable housing that meets the City’s affordability criteria, are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

Various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts associated with public facilities and services, as listed in the following table.

General Plan Policies - Recreation	
Parks, Trails, Open Space, and Recreation	
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-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
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 3/4 mile radius of the project site that generates the funds.

4.16.1.2 Existing Conditions

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks.⁵⁶ The City also manages approximately 50 community centers, 18 community gardens, and five pool facilities. Other recreational facilities include six public skate parks and over 54 miles of interconnected trails.

The closest public parks (within one-third mile) are the Theodore Lenzen Park, on the corner of Stockton Avenue and Lenzen Avenue, approximately 0.3-mile northwest of the site, and the Guadalupe River Park Trail, located approximately 1,000 feet northeast of the site. Guadalupe River Park and Gardens is a three-mile long park that runs adjacent the Guadalupe River in Downtown San José.⁵⁷

⁵⁶ City of San José. “Parks, Recreation, & Neighborhood Services”. Accessed September 29, 2018. Available at: <https://www.sanJoseca.gov/index.aspx?NID=204>

⁵⁷ Guadalupe River Park Conservancy. “River Park & Gardens”. Accessed September 25, 2018. Available at: <http://www.grpg.org/river-park-gardens/>

Nearby community centers include the Gardner Community Center (approximately 1.4 miles southeast of the site), and Northside Community Center (approximately 1.6 miles northeast of the site).

The City’s PDO and the PIO requires new residential development to provide three acres of neighborhood/community serving parkland per 1,000 population of San José residents either through dedication of parkland to serve new residents, or payment of fees to offset the increased costs of providing new park facilities for new development.

4.16.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
1) 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"/>
2) 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"/>

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

1)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? [Same Impact as Approved Project (Less than Significant Impact)]
----	---

The residential component of the project would generate approximately 54 residents and hotel guests may also use City park and recreational facilities. Impacts to parks and recreational facilities from increased demand and use of these facilities resulting from the project would be limited.⁵⁸ The proposed project also includes a 525 square-foot roof deck and a 706 square-foot common area on the ninth floor of the building for future residents to use for recreational purposes. The use of these recreational areas by residents and hotel guests would further reduce the project’s demand on parkland and recreational facilities. To further offset demand for parkland and recreational facilities, the project would be subject to the City’s PDO/PIO. The project would be subject to the payment of PDO/PIO fees (based on the number of residential units) which would be used to provide neighborhood-serving facilities within a three-quarter mile radius of the project site and/or community serving facilities within a three-mile radius. For these reasons, the proposed development (which was accounted for in the DSAP PEIR), would not increase the use of existing parks or other

⁵⁸ This project assumes the number of residents per household is 2.85.

recreational facilities such that substantial physical deterioration would occur or be accelerated due to overuse.

Since development on the site was accounted for in the DSAP and Downtown Strategy 2040 and, therefore, the proposed project would not result in new or more significant environmental effects from increased use of recreational facilities than assumed in the DSAP and Downtown Strategy 2040 FEIRs. **[Same Impact as Approved Project (Less Than Significant Impact)]**

-
- 2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

As discussed above, the increased use in City park and recreational facilities from use by 54 residents and hotel guests would not result in substantial physical deterioration of these facilities. The project would therefore not require new construction or expansion of recreational facilities not previously identified in the DSAP and Downtown Strategy 2040 FEIRs. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17 TRANSPORTATION

This section is based on a Local Transportation Analysis that was completed for the proposed project by *Hexagon Transportation Consultants, Inc.* in January 2019. A copy of this report is attached as Appendix F to this Initial Study.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Planning

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes the region’s Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Senate Bill 743

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

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

Regional

Metropolitan Transportation Commission

Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities

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

Congestion Management Program

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

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

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

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

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

Envision San José 2040 General Plan

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

General Plan Policies - Transportation	
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-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects’ effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. <ul style="list-style-type: none"> • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
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-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.

4.17.1.2 Existing Conditions

The transportation system includes the roadway network, pedestrian and bicycle facilities, and public transit. These components of the transportation system, as they relate to the project site, are discussed in further detail below.

Roadway Network

Regional access to the project site is provided by SR 87. Local site access is provided by Stockton Avenue, Julian Street, Santa Clara Street, and The Alameda. The SR 87 freeway and local roadways are described below.

SR 87 is primarily a six-lane freeway (four mixed-flow lanes and two HOV lanes) that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and

extends northward, terminating at its junction with US 101. Access to the project site to and from SR 87 is provided via nearby ramps at West Julian Street.

Stockton Avenue is generally a two-lane north-south street that runs between the College Park Caltrain Station and The Alameda. Bike lanes are provided along both sides of Stockton Avenue along its entire extent. Stockton Avenue runs along the west project frontage and provides direct access to the project site.

Julian Street is a two-lane east-west street between The Alameda and Montgomery Street then transitions to a four-lane street east of Montgomery Street. An interchange with SR-87 is located east of Almaden Boulevard. Julian Street runs along the north project frontage and project site access is provided via Stockton Avenue.

Santa Clara Street is an east-west four-lane street located south of the project site. It extends as West Santa Clara Street from First Street westward to Stockton Avenue where it transitions into The Alameda. East of First Street, it extends eastward as East Santa Clara Street to US-101 where it transitions into Alum Rock Avenue. Site access is provided via Stockton Avenue.

The Alameda (State Route 82) is generally a four-lane north-south arterial that runs from Santa Clara University to Stockton Avenue where it becomes Santa Clara Street. Site access is provided via Julian Street and Stockton Avenue.

Pedestrian Facilities

Pedestrian facilities in the vicinity of the project site consist of sidewalks along most of the surrounding streets, including the project frontage along Stockton Avenue. A continuous sidewalk is available only along the north side of Julian Street between Stockton Avenue and Montgomery Street. The sidewalk located along the north project frontage (south side of Julian Street) ends approximately 130 feet east of the Stockton Avenue/Julian Street intersection. Pedestrian crosswalks are present along the east, north, and west legs of the Stockton Avenue/Julian Street intersection. Overall, the existing sidewalks have good connectivity and provide pedestrians with safe routes to the surrounding pedestrian destinations in the Downtown area, including the SAP Center (0.4-mile), Diridon Station (0.35-mile), and commercial and restaurant uses on The Alameda (0.3-mile). Existing pedestrian facilities are shown on Figure 4.17-1, below.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). The existing bicycle facilities within approximately 0.5 mile of this project site include the Guadalupe River multi-use trail (Class I bikeway) and shared bike routes (Class III bikeway).

In the vicinity of the project site, bike lanes are found along the following roadways:

- Stockton Avenue
- Julian Street, west of Stockton Avenue
- Autumn Parkway
- Coleman Avenue, west of Santa Teresa Street

- Santa Clara Street, east of Stockton Avenue
- San Fernando Street
- Park Avenue
- Race Street, north of Park Avenue and south of San Carlos Street

The Guadalupe River multi-use trail system runs through the City of San José along the Guadalupe River and is shared between pedestrians and bicyclists and separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile continuous Class I bikeway from Curtner Avenue in the south to Alviso in the north. The nearest access point to the Guadalupe River Trail is provided via a trailhead at the northeast corner of the Autumn Parkway and Julian Street intersection, approximately 1,000 feet northeast of the project site.

In addition, the City of San José participates in the Bay Area Bike Share program, which allows users to rent and return bicycles at various popular locations around the Downtown area. The nearest bike share station is located less than 800 feet west of the project site at the northeast corner of the Morrison Avenue/Julian Street intersection. An additional bikeshare station is located on The Alameda, 200 feet west of Stockton Avenue. Figure 4.17-2 shows the existing bicycle facilities.

Public Transit

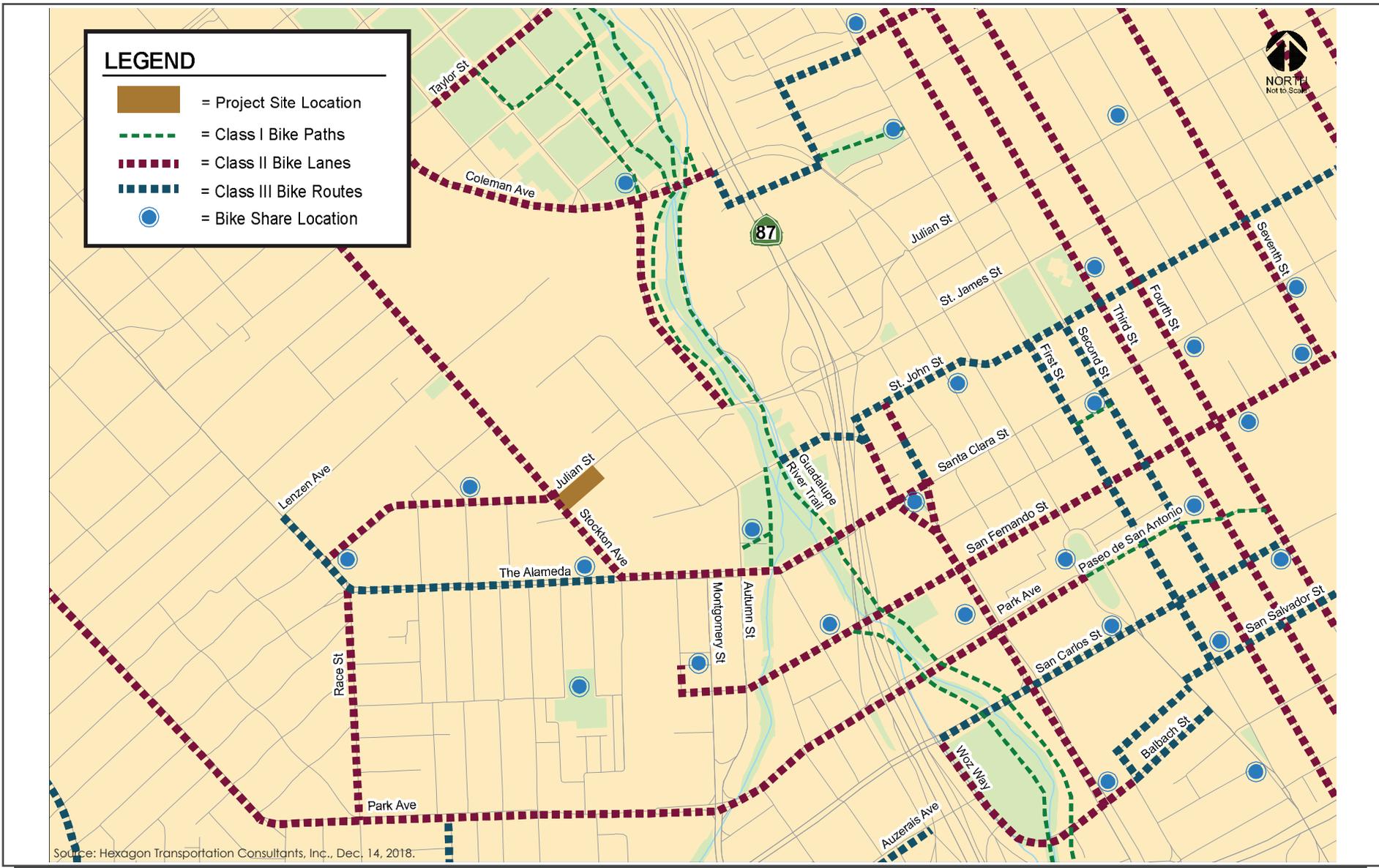
Existing transit services in the vicinity of the project site include the Santa Clara Valley Transportation Authority VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The project site is located approximately 0.35-mile from the Diridon Transit Center located on Cahill Street, which is about an eight minute walk/ four minute bike ride. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within Diridon Station. Figure 4.17-3 shows the existing transit facilities.



Source: Hexagon Transportation Consultants, Inc., Dec. 14, 2018.

EXISTING PEDESTRIAN FACILITIES

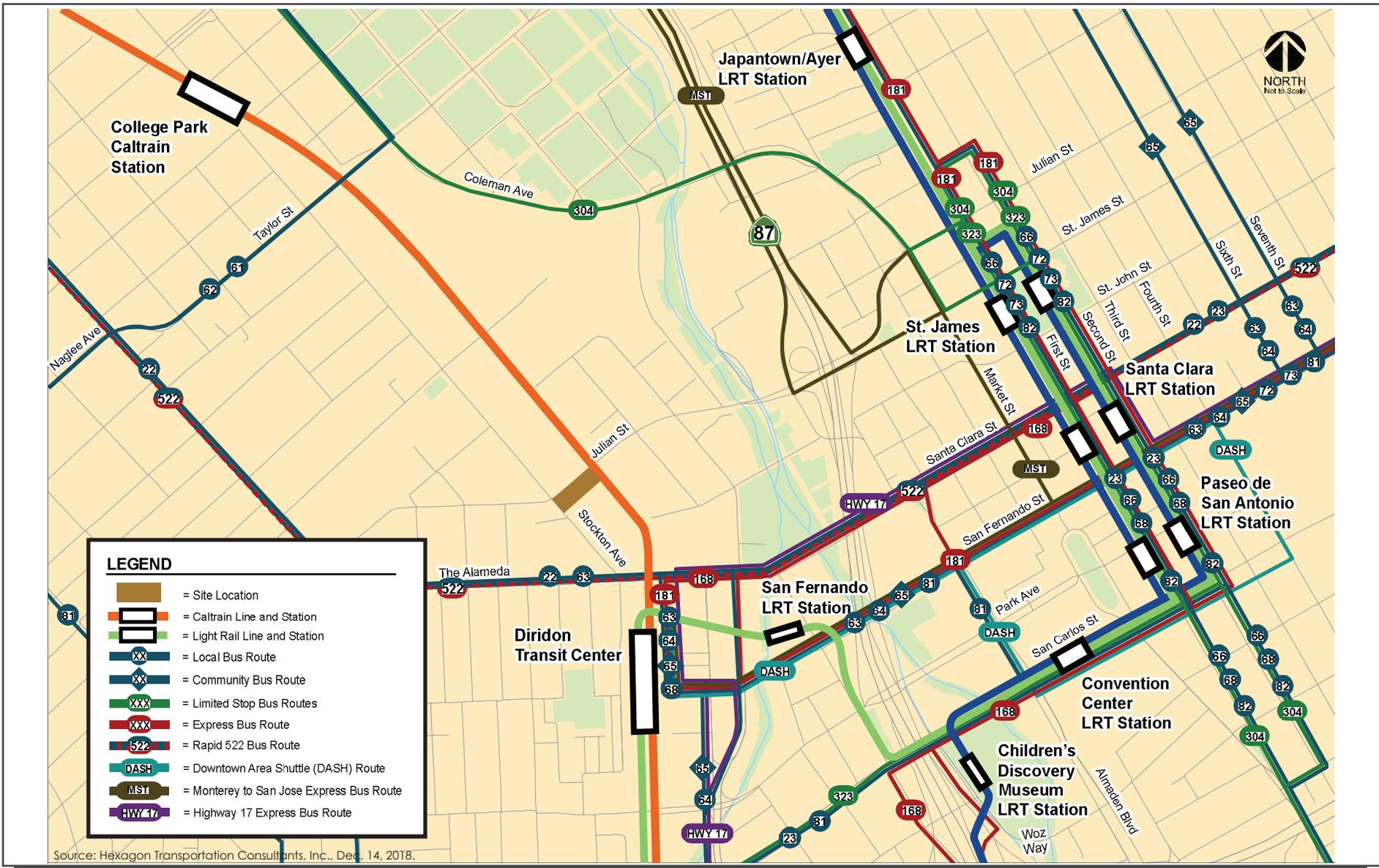
FIGURE 4.17-1



Source: Hexagon Transportation Consultants, Inc., Dec. 14, 2018.

EXISTING BICYCLE FACILITIES

FIGURE 4.17-2



EXISTING TRANSIT FACILITIES

FIGURE 4.17-3

VTA Service

The Valley Transportation Authority (VTA) operates local bus routes within the project vicinity. The closest bus stops are located near the intersection of Stockton Avenue/The Alameda. Additional local and express bus routes make stops at the Diridon Station where services to regional destinations are provided by VTA express bus routes 168, 181, and the Amtrak Highway 17 Express. The VTA bus routes with stops near the project site are described in Table 4.17-1 below.

Table 4.17-1: Existing Bus Service			
Bus Route	Route Description	Weekday Hours of Operation¹	Headway
Local Route 22	Palo Alto Transit Center to Eastridge Transit Center via El Camino	3:20 AM- 4:15 AM	15 minutes
Local Route 63	Almaden Expwy/Camden to SJSU	6:15 AM – 10:24 PM	30 – 45 minutes
Local Route 64	Almaden LRT Station to McKee & White via Downtown	5:20 AM – 11: 20 PM	15 minutes
Local Route 65	Kooser/Blossom Hill to 13 th /Hedding	5:45 AM – 7:54 PM	45 – 55 minutes
Local Route 68	Gilroy Transit Center to San José Diridon Transit Center	4:00 AM – 1:25 AM	15 – 20 minutes
Express Route 168	Gilroy Transit Center to San José Diridon Transit Center	5:30 AM – 8:55 AM 3:40 PM – 7:05 PM	20 - 30 minutes
Express Route 181	Fremont BART Station to San José Diridon Transit Center	5:30 AM – 12:40 AM	15 minutes
DASH (Light Rail Shuttle 201)	Downtown Area Shuttle (DASH)	6:35 AM – 9:30 PM	5 – 10 minutes
Hwy 17 Express (Regional Service 970)	Downtown Santa Cruz/Scotts Valley to Downtown San José	4:40 AM – 11:40 PM	15 – 30 minutes
¹ Approximate weekday operation hours and headways during peak commute periods.			

VTA Light Rail Transit (LRT) Services

The VTA also operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24 hours a day with 15-minute headways during much of the day. The Mountain View-Winchester LRT line is accessible from the Diridon Station located along Laurel Grove Lane approximately 0.5-mile south of the project site. A transfer point to the Alum Rock-Santa Teresa line is provided at the Convention Center station.

Caltrain Service

Caltrain is a regional, intercity commuter rail service between San Francisco and Gilroy. Caltrain provides service with approximately 20- to 30- minute headways during the weekday AM and PM commute hours. Trains stop frequently at the Diridon Station between 4:28 AM and 10:30 PM in the northbound direction and between 6:38 AM and 1:38 AM in the southbound direction.

Altamont Commuter Express (ACE) Service

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

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area. The Capitol Corridor trains stop at the Diridon Station eight times each weekday between approximately 7:38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during each weekday between 6:40 AM and 7:15 PM.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:					
1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian paths?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

-
- 1) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The proposed project is located within the Downtown Growth Area Boundary which was included in the Downtown Strategy 2040 FEIR. With adoption of the FEIR, this project is covered under the FEIR boundaries and therefore no transportation analysis is required. The City's Transportation Analysis Policy uses VMT as the metric to assess transportation impacts from new development. The 303 hotel rooms and 19 residential condominiums proposed by the project are part of the 11.2 million square feet of office, 8,500 residential units, 1.4 million square feet of retail, and 3,600 hotel rooms in four phases of development proposed in the Downtown Strategy FEIR. The traffic impacts of which were evaluated in the DSAP PEIR. The DSAP PEIR evaluated the operation of 104 intersections in and outside of the Downtown Core. Based on the trip generation rates and reductions, it is estimated that the proposed project would generate 2,738 daily trips, with 134 trips (77 inbound and 57 outbound) occurring during the AM peak hour and 170 trips (87 inbound and 83 outbound) occurring during the PM peak hour.

Pedestrian and Bicycle Access and Circulation

The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development for the purpose of enhancing the pedestrian experience in the greater downtown area. Stockton Avenue and Julian Street are designated Downtown Pedestrian Network Streets (DPNS), which are intended to support a high level of pedestrian activity as well as retail and transit connections. The DPNS streets provide a seamless network throughout the downtown that is safe and comfortable for pedestrians and connects all major downtown destinations. Design features of a DPNS create an attractive and safe pedestrian environment to promote walking as the primary travel mode. The DSMP policies state that vehicles crossing the sidewalk are often a safety hazard for pedestrians and measures should be taken within the design for any new project to minimize the number of curb cuts and driveways. The project proposes one curb cut on Second Street to provide access to the subgrade parking garage.

Pedestrian Facilities

Pedestrian facilities in the study area consist mostly of sidewalks along all of the surrounding streets, including the project frontage along Stockton Avenue. including the project frontages along Stockton Avenue and Julian Street. However, a portion of the sidewalk along the north project frontage (Julian Street) is currently closed to the public, starting approximately 130 feet east of the Stockton Avenue/ Julian Street intersection until the railroad right-of-way. The project proposes to reconstruct the sidewalk along its entire north project frontage. However, the sidewalk along the north project frontage will terminate at the eastern project boundary and will not provide access to the east side of the railroad right-of-way.

Pedestrian push buttons and crosswalks are present along the east, north, and west legs of the Stockton Avenue/Julian Street intersection. The addition of an east-west crosswalk on the south leg of the intersection would improve connectivity between the project and areas along the south side of Julian Street and along the west side of Stockton Avenue. There also are retail uses located along The

Alameda that may be destinations for hotel guests. Proposed improvements at the Stockton Avenue/ Julian Street intersection that are planned by the City of San José include the installation of a crosswalk along the south leg of the intersection. Additionally, few pedestrian destinations are located east of the railroad underpass along Julian Street. Pedestrian facilities from the project site to the Downtown area east of SR 87 are already provided along Stockton Avenue and Santa Clara Street. Therefore, the sidewalk along the north side of Julian Street provides an adequate connection between the project site and areas east of the railroad right-of- way.

Sidewalks along the east side of Stockton Avenue and the north side of Santa Clara Street provide the most direct pedestrian route between the project site and the SAP Center. An alternative route is provided via sidewalks along the north side of Julian Street and the west side of Montgomery Street. Overall, the existing sidewalks have good connectivity and provide pedestrians with safe routes to the surrounding pedestrian destinations in the area, located primarily to the south and east of the project site.

Bicycle Facilities

Class II bicycle facilities (striped bike lanes) are provided along the west project frontage along Stockton Avenue and on Julian Street, west of Stockton Avenue. Bike lanes located along the extent of Stockton Avenue provide access to the College Park Caltrain station to the north and commercial areas along The Alameda to the south. The Alameda, between Stockton Avenue and Lenzen Avenue, is a designated Class III bike route indicated by signage. Bike lanes on Santa Clara Street, east of Stockton Avenue, provide access to the SAP Center, Diridon Transit Center, and the downtown area east of SR 87. An additional route to areas east of SR 87 is available via St. John Street, east of the Guadalupe River Park Trail. The route consists of a designated Class III bikeway with “sharrow” or shared lane markings. The Guadalupe River Park Trail, a Class I pedestrian and bicycle trail, is accessible from the northeast corner of the Autumn Parkway and Julian Street intersection, approximately 1,000 feet east from the project site. The trail provides access to areas between Curtner Avenue to the south and Alviso to the north. Currently, there are no bike lanes provided along Julian Street, east of Stockton Avenue. However, a new bike lane and bike route on Julian Street are proposed as part of improvements to the Stockton Avenue/Julian Street intersection, described below. In addition, Ford GoBike stations are provided throughout the Downtown area. The nearest bike share station is located less than 800 feet west from the project site at the northeast corner of the Morrison Avenue/Julian Street intersection.

The project proposes to construct a 303-room hotel and 19 residential condominium units on the project site. A three-level below-grade parking garage, accessed off of Stockton Avenue, would provide 129 parking spaces and 47 bicycle parking spaces. Bicycle parking would be located on the first floor of the building and in the first below-ground level and accessible from the west project frontage via the condominium and hotel lobbies. Additional access to the parking levels is provided via the sidewalk along the east project frontage and elevators within the hotel. The project is proposing space for the storage of 47 bicycles with 12 long-term bicycle parking spaces and 35 short-term bicycle parking spaces. The proposed project would therefore meet the City’s requirement for bicycle parking. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Planned Roadway Improvements

Improvements to the Downtown pedestrian and bicycle networks are included as part of planned Stockton Avenue/Julian Street intersection improvements. The proposed improvements include widening Julian Street east of Stockton Avenue to allow for the installation of a bike lane along the westbound direction (north side) of Julian Street. Bike route “sharrows” would be installed on the eastbound travel lane. The proposed bike facilities would provide a more direct route between the project site and areas east of the Julian Street railroad underpass, including the Guadalupe River Park Trail. As discussed previously, proposed improvements to the pedestrian network include the addition of an east-west crosswalk along the south leg of the intersection. Additionally, the existing split-phased traffic signal operation at the eastbound and westbound approaches would be modified to a protected-only left-turn phasing, which allows for a protected east-west pedestrian phase. Therefore, the proposed improvements will improve safety and connectivity of bicycle and pedestrian networks within the vicinity of the proposed hotel. Per the City of San José, the project will be required to re-align the curb along its Julian Street project frontage to conform to the plan line. The project will also be required to complete signal modifications that will include the relocation of the existing traffic signal pole at the southeast corner of the Stockton Avenue/Julian Street intersection.

Transit

There are major transit services in the project area that will provide the opportunity for multi-modal travel to and from the project site. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center, located approximately 0.35-mile from the project site. Transit services in the project site area are provided by the Santa Clara Valley Transportation Authority VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The pedestrian and bicycle facilities located along streets adjacent to the project site provide access to major transit stations and provide for a balanced transportation system as outlined in the Downtown Strategy 2040.

-
- 2) Would the project conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)? [**Same Impact as Approved Project (Less Than Significant Impact)**]
-

Per the City’s Transportation Policy 5-1, the traffic impacts of the proposed project were analyzed using the City’s VMT methodology. The proposed residential component of the project is within the Downtown growth boundary and is within a low VMT per capita area for residential uses based upon Figure 3.15-6 of the Downtown Strategy 2040 FEIR. The residential component of the project, therefore, has less than significant VMT impacts.

Based on Figure 3.15-7 in the Downtown Strategy 2040 FEIR, the proposed hotel component of the project was further evaluated to determine if the project’s VMT per job would exceed the City’s significance thresholds under Policy 5-1. The City requires that VMT generated by hotel uses be compared to the retail VMT standards. Per the Downtown Strategy 2040, retail land uses less than 100,000 square feet are considered local-serving and are screened from VMT evaluation. The VMT from the proposed hotel component of the project (303 hotel rooms) would be equivalent to the VMT of approximately 68,000 square feet of retail uses. The project would be screened from further VMT

evaluation as it is below the 100,000 square-foot retail VMT standard and therefore would result in less than significant VMT impacts.⁵⁹

Condition of Approval

Consistent with the Downtown Strategy 2040 and as a condition of project approval, the project includes a Transportation Demand Management (TDM) program to reduce vehicle trips generated by the project. The TDM program includes the following measures:

- *Guest Shuttle Services* - The proposed project would offer free shuttles to guests. The shuttle destinations would be determined based on guest preferences. It is initially thought that shuttles would serve the Mineta International Airport, Diridon Transit Station, and downtown in San Jose. Since part of the proposed project is a hotel, a portion of the guests would likely be traveling through the airport. With the option of using the free shuttle, the need for a car and a parking space would be reduced. Mineta International Airport is approximately three miles driving distance from the proposed project.
- *On-Site Bicycle Share Program* - The proposed project would provide on-site bicycles for tenants and visitors to share. The bicycles would be stored in a secured common space that can be checked out by guests. Local destinations throughout Downtown are a short bicycle ride away from the proposed project. Inclusion of a bike share program would likely reduce the need for tenants and guests to use a car.
- *On-Site Car-Share Program* - The proposed project would provide on-site access to a car-sharing service such as Zipcars for hotel employees and guests. Vehicles will be located on-site allowing hotel employees and guests to come and go at their convenience. Vehicles can be reserved prior to visiting the hotel.
- *Free VTA Smart Passes* - The proposed project would offer free annual VTA Smart Passes for employees for the life of the project. Smart Passes would give employees unlimited rides on VTA Bus, light rail transit (LRT), and Express Bus service seven days a week. Smart Pass is deeply discounted below the standard fares, making it an attractive low-cost benefit to employees.
- *Financial Incentives for Biking or Walking to Work (Hotel Employees Only)* - In order to encourage employees of the proposed hotel to use alternative modes to get to work, a parking cash-out program for employees would be established. Employees who walk or bike to work at least four days per week would be eligible to receive a financial incentive for doing so. Employees who request a parking cash-out for bicycling or walking to work would not be eligible to receive subsidized annual VTA Smart Passes. Participating employees would not be allowed to park in the project's parking garage on a daily basis. However, since there may be times when employees who primarily commute using alternative modes of transportation need to drive to work, employees who receive a financial incentive for biking or walking to work (or who receive subsidized transit passes) should be allowed to park in the garage on such occasions. The maximum number of times those individuals may park in the garage could be set at twice a month, or some similar limit based on employee feedback from annual Employee Surveys. The amount of the financial incentive for walking or biking to work would be \$50 per month. The Federal Bike Commuter Benefit allows employees to receive up to \$20 per month tax-free. The balance of \$30 for bicyclists and the full \$50 for

⁵⁹ Del Rio, Robert. Vice President, Hexagon Transportation Consultants. Email exchange. May 7, 2019.

those who regularly walk to work would be considered taxable income to employees. (Although transit and vanpool subsidies up to \$255 per month are exempt from federal income taxes, the Federal Bike Commuter Benefit is limited to \$20 per month.) Parking cash-out is a state law in California, but the state law only applies to employers with 50 employees or more who lease their parking and where parking costs can be separated out as a line item on their lease. Because the proposed hotel would not have 50 employees, we note that the state law does not apply to this project. The parking cash-out program is voluntarily included as an element of this TDM Plan.

- *On-Site TDM Coordinator and Services* - The proposed project would provide an on-site TDM coordinator, who would be responsible for implementing and managing the TDM plan. The TDM coordinator would be a point of contact for tenants, guests and employees should TDM-related questions arise, and would be responsible for ensuring that guests are aware of all transportation options and how to fully utilize the TDM plan. The TDM coordinator would provide the following services and functions to ensure the TDM plan runs smoothly:
 - Provide guests information at the time of check-in. The process would include information about public transit services, ridesharing services (e.g., Uber, Lyft, and Wingz), bicycle maps, the on-site bicycle-share program, the on-site car-sharing program and the guest shuttle.
 - A summary of the transportation options offered to all tenants, guests and employees.
 - Manage the on-site bicycle-share program to ensure the bicycles remain in good condition.
 - Manage the on-site car-share program to ensure the vehicles are used in the manner intended by the car-sharing service.
 - Provide information to employees about subsidized transit passes and the financial incentive programs for employees who bike or walk to work.
 - Conduct parking surveys annually to track actual parking demand and determine whether additional TDM measures, or another parking solution, is needed.

With implementation of the above TDM plan, the project would further reduce vehicle trips generated. The proposed project is part of the planned growth in the Downtown area and will not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

3) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? **[Same Impact as Approved Project (Less Than Significant Impact)]**

The local transportation analysis completed for the proposed project evaluated driveway operations, and driveway sight distance.

The driveways serving the project should be free and clear of obstructions, thereby ensuring that all exiting vehicles can see pedestrians on the sidewalk and vehicles travelling on Stockton Avenue. Adequate sight distance should be provided at the driveway in accordance with Caltrans standards. Appropriate visible and/or audible warning signals would be provided at the project driveway to alert pedestrians and bicyclists of vehicles exiting the driveway.

Providing appropriate sight distance reduces the likelihood of a collision at a driveway or intersection and provides drivers with the ability to exit a driveway or locate sufficient gaps in traffic. Sight distance requirements vary depending on the roadway speeds. For Stockton Avenue, which has a speed limit of 30 miles per hour (mph), the Caltrans stopping sight distance is 200 feet. Thus, a driver must be able to see 200 feet south on Stockton Avenue when turning out of the project driveway to avoid a collision. Based on the proposed driveway location on Stockton Avenue, a clear line of sight of more than 500 feet is provided to the south. However, sight distance from the project driveway to the north will be restricted due to its close proximity to the Stockton Avenue/Julian Street intersection, that is located 65 feet to the north. Therefore, the proposed project driveway would be restricted to right-turns in and out only and red-curbing along the project frontage on Stockton Avenue would be maintained between the project driveway and Julian Street and 50 feet south of the project driveway adjacent to the existing fire hydrant. Additionally, appropriate visible and/or audible warning signals would be provided at the project driveway to alert pedestrians and bicyclists of vehicles exiting the project driveway. The proposed project, with implementation of a right-in, right-out driveway would not result in a substantial hazard from a design feature or incompatible land use. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4) Would the project result in inadequate emergency access? **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project site fronts two roadways that would provide adequate emergency access to the site. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.18 TRIBAL CULTURAL RESOURCES

This discussion is also based upon a series of archaeological reports completed by *Holman & Associates* from August 2018 to February 2019. Copies of the archaeological reports are on file at the City Planning, Building and Code Enforcement Department.

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

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

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
 - Included or determined to be eligible for inclusion in the California Register of Historic Resources⁶⁰
 - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

4.18.1.2 *Existing Conditions*

The project site is located in Downtown San José and is within the DSAP boundary. According to an archaeological records search that was prepared for the project in August 2018, archaeological and tribal cultural resources have a high likelihood of being present in the vicinity of the project site.

An archaeological site was recorded within the project area, and was originally discovered during monitoring for the Qwest Communications telecommunications work in 2000. In this portion of San José, Native American sites have been identified adjacent to springs or within a half mile of the two major waterways: Coyote Creek and the Guadalupe River and their major tributaries. Isolated burials have also been identified near both sides of the Guadalupe River within this general area.

Approximately 60 percent of the Native American archaeological sites in San José have been buried under alluvium or historical/recent layers. The project area is located one-third mile west of the confluence of Los Gatos Creek with the Guadalupe River on part of a large valley terrace. Based

⁶⁰ See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

on its distance from a major waterway, the project site has a moderate to high potential for additional buried Native American resources.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

During preparation of the Downtown Strategy 2040, the City sent a letter to the NAHC seeking information from the sacred lands files and the names of Native American individuals and groups that would be appropriate to contact for the Downtown Strategy Project, consistent with the requirements of SB18 and AB52. In response to the City’s notification to tribal representatives of the proposed Downtown Strategy 2040 and related 2040 General Plan Amendments, a tribal representative for the Ohlone Indian Tribe initiated consultation with the City on the proposed 2040 General Plan Amendments on June 7, 2018. The result of the request for consultation was the establishment of a framework for development-project-level literature reviews, field work, and treatments for potential resources, including human remains for application to the future projects in Downtown when such project involve ground-disturbing activities. This framework is outlined in *Section 4.5 Cultural Resources*.

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

-
- 1) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 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 listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)? **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Measures)]**
-

An archaeological site was recorded within the project area and was originally discovered during monitoring for the Qwest Communications telecommunications work in 2000. Based upon the definition of a TCR as set forth in subdivision (c) of Public Resources Code Section 5024.1, the archaeological artifact is not included or determined to be eligible for inclusion in the California Register of Historic Resources or in a local register of historical resources. If tribal cultural resources are encountered on-site, the standard permit conditions and mitigation measures outlined in *Section 4.5 Cultural Resources* would be applied. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

-
- 2) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a 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 § 5024.1? **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Measures)]**
-

Significant tribal cultural resources are not known to be present on-site. If tribal cultural resources are encountered on-site, the standard permit conditions and mitigation measures outlined in *Section 4.5 Cultural Resources* would be applied. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State and Regional

Urban Water Management Plan

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

Wastewater

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

Assembly Bill 939 and Senate Bill 1016

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

Assembly Bill 341

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

Senate Bill 1383

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

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies for the purpose of reducing or avoiding impacts associated with utilities and service systems.

General Plan Policies - Utilities & Service Systems	
Water Conservation and Quality Policies	
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help reduce the depletion of the City’s potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.
Water Supply, Sanitary Sewer, and Storm Drainage Policies	
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

4.19.1.2 Existing Conditions

Water Service and Supply

Water service to the project site is provided by the San José Water Company. The project site is currently served by 12-inch and five-inch water mains in Stockton Avenue and a 12-inch water main in West Julian Street. There are currently no recycled water lines in the immediate site vicinity.⁶¹ The project site is currently undeveloped and serves as a parking lot.

Wastewater/Sanitary Sewer System

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility), formerly known as the San José/Santa Clara Water Pollution Control Plant (WPCP), in

⁶¹ South Bay Water Recycling. “Recycled Water Pipeline System.” Accessed February 14, 2019. <http://santaclaraca.gov/government/departments/water-sewer-utilities/recycled-water-utility>

Alviso.⁶² The Facility is the largest tertiary treatment plant in the western United States with a capacity to treat 167 million gallons per day (mgd) of sewage during dry weather flow. On average, the RWF treats 110 mgd of wastewater. The resulting fresh water is discharged from the Facility into the San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 mgd of dry weather sewage flow. The City's share of the Facility treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.⁶³

Sanitary sewer lines in the project area are inspected and maintained by the City of San José Department of Transportation, and rehabilitated and replaced by the Department of Public Works. There are existing eight-inch and 12-inch sanitary sewer mains in Stockton Avenue and West Julian Street, respectively, that currently serve the project site.

Storm Drainage

The 0.85-acre project site is developed and consists entirely of pervious paving. Runoff from the site flows overland into the City-maintained storm drainage system, which is comprised of a network of inlets, manholes, pipes, outfalls, channels, and pump stations. There is an existing 18-inch storm drain main on the Stockton Avenue project frontage that currently serves the existing project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2026.⁶⁴ Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

The project site is an unpaved parking lot that does not generate solid waste. The City of San José has an existing contract with Newby Island Sanitary Landfill (NISL). The NISL has a planned closure of 2039. The City has an annual disposal allocation for 395,000 tons per year. As of May 2018, NISL had approximately 16.9 million cubic yards of capacity remaining.⁶⁵

⁶² City of San José. "San José-Santa Clara Regional Wastewater Facility". Accessed September 30, 2018. Available at: <https://www.sanJoseca.gov/index.aspx?NID=1663>.

⁶³ City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR*. November 2011.

⁶⁴ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. May 2011.

⁶⁵ Kelapanda, Achaya. Environmental Manager, Newby Island Sanitary Landfill. Personal communications. May 17, 2018.

4.19.2

Impact Discussion

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

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

1)	Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? [Same Impact as Approved Project (Less Than Significant Impact)]
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Water

Based on SJWC's 2010 Water Supply Assessment completed for the City's 2040 General Plan, the water demand generated by hotel rooms and residents in the City is approximately 100 gallons per day (gpd) and 78 gpd, respectively. New three-inch water lines from the site would connect to a 12-inch water line in West Julian Street. The project proposes 303 hotel rooms and 19 residential condominiums which would have a population increase of 54 residents, resulting in a total water demand of 34,512 gpd. The project proposes water efficient landscaping throughout the site.

The proposed project's water demand is consistent with the assumptions for the project area in the DSAP PEIR and Downtown Strategy 2040, which approximated cumulative water demand in the plan area to increase to 3.2 million gpd, based on the long range water supply planning completed as part of the 2040 Envision San José 2040 General Plan. The DSAP PEIR and Downtown Strategy 2040 concluded that implementation of water conservation/efficiency measures and use of recycled water would minimize long-term potable water demand generated by future users. Implementation of water conservation/efficiency measures and use of recycled water would minimize the long-term potable water demand generated by development under Downtown Strategy 2040, as well as reduce the vulnerability of development in the case of future water shortages due to global climate change. The Downtown Strategy 2040 FEIR determined that it is anticipated that new or expanded entitlements for water supplies would not be required to serve development, of which the project is a part, in the Downtown area.

Wastewater

Assuming the proposed project generates wastewater equivalent to approximately 85 percent of the total water demand, the total wastewater generated would be 29,335 gpd. The proposed project would connect to existing eight-inch and 12-inch sanitary sewer lines in Stockton Avenue and West Julian Street, respectively. Development under the DSAP and Downtown Strategy 2040 area is estimated to generate approximately 30.8 mgd of average dry weather influent flow. Given that the City has approximately 38.8 mgd of excess treatment capacity, planned growth in San José is not expected to exceed the City's allotted capacity. Additionally, the proposed project, in accordance with the Downtown Strategy 2040, would incorporate water conservation features, such as efficient landscaping, to reduce the amount of effluent that is discharged to the bay. For these reasons, future development under the DSAP and Downtown Strategy 2040, including the current project, would not require new or expanded wastewater treatment capacity.

Stormwater

Under existing conditions, the approximately 0.85-acre (37,400 square feet) project site consists of pervious surfaces. Under project conditions, the impervious surfaces on-site would increase by approximately 95 percent (35,625 square feet).

The project would connect a new 12-inch pipe to an existing 18-inch storm drain in Stockton Avenue. Because the development would result in the replacement of more than 10,000 square feet of impervious surface area, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP. In order to meet these requirements, the project proposes media filters.

According to the Downtown Strategy 2040 FEIR, projects located within the Downtown area, such as the proposed project, would not require or result in the construction of a new stormwater facility or expansion of existing facilities.

Other Utilities

The project would connect with existing electrical, natural gas, and telecommunication lines adjacent to the project site. Construction of utility connections in disturbed right-of-way would not result in significant environmental impacts. Implementation of these connections consistent with General Plan policies would ensure impacts would be less than significant.

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

-
- 2) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

According to the General Plan FEIR (as amended), under build-out conditions, water demand could exceed water supply during dry and multiple dry years after 2025. The General Plan FEIR concluded, however, that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply under standard conditions and drought conditions.

The project proposes to develop 19 residential condominiums and a 303-room hotel, which is consistent with planned growth in the General Plan and the Downtown Strategy. The project shall comply with CalGreen and the City's Private Sector Green Building Policy. Per the City's Private Sector Green Building Policy, the proposed project is required to achieve LEED Certification by incorporating a variety of design features including water conservation measures such as planting drought tolerant landscaping.

The proposed project would be consistent with planned growth in the General Plan, in that it would develop the site with hotel and residential uses, drawing from the total development capacity created by the Downtown Strategy 2040, and would comply with the policies and regulations identified in the Downtown Strategy 2040 FEIR. Therefore, 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)]**

-
- 3) Would the project result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

The General Plan FEIR concluded that with the implementation of existing regulations and General Plan policies, existing wastewater treatment facilities would have capacity to meet future wastewater treatment demands. The City currently has approximately 38.8 million gallons per day (mgd) of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, SEIR, and Addenda thereto, 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 and Downtown Strategy 2040. 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) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

Operation of the proposed development would generate approximately 622 pounds of solid waste per day for the hotel, and 76 pounds per day for the residential component.^{66, 67} According to the IWMP, the County has adequate disposal capacity beyond 2020. The project is consistent with planned growth from build-out of the General Plan and the Zero Waste Strategic Plan in combination with existing regulations and programs, would ensure that the proposed project would not result in a significant impact on solid waste disposal capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

-
- 5) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste? **[Same Impact as Approved Project (Less Than Significant Impact)]**
-

The proposed project would generate approximately 698 pounds of solid waste per day.⁶⁸ The project would comply with the City's commercial recycling program to divert waste from landfills in accordance with state law. In accordance with the current CALGreen Code, development under the Downtown Strategy 2040 FEIR are required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. Solid waste generated by the project would be collected by Garden City Sanitation and would be disposed of at the Newby Island Sanitary Landfill. Garden City Sanitation and Newby Island are required to comply with local, state, and federal statutes related to solid waste. Thus, the project would comply with the applicable local, state, and federal statutes and regulations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

⁶⁶ CalRecycle. "Estimated Solid Waste Generation Rates." Accessed February 19, 2019. <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>.

⁶⁷ Solid waste generation was estimated at a rate of two pounds per room per day for hotel.

⁶⁸ Ibid.

4.20 WILDFIRE

4.20.1 Environmental Setting

State

Fire Hazard Severity Zones

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

California Fire Code, Chapter 47

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

California Code of Regulations, Title 14

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

Fire Management Plans

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

4.20.1.1 *Existing Conditions*

The project site is located in an urban area of Downtown San José. Therefore, the site is not within a fire hazard severity zone.⁶⁹

⁶⁹ Fire Hazard Severity Zones in Santa Clara County. November 7, 2007.

4.20.2 **Impact Discussion**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. The project, therefore, would not result in any impact related to emergency response or evacuation, exposure of project occupants to pollutant concentrations from or uncontrolled spread of wildfire, the installation of infrastructure to combat wildfire, or exposure of people or structures to risks of flooding or landslides resulting from post-fire runoff, slope instability, or drainage changes. **[Same Impact as Approved Project (No Impact)]**

4.21

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"
1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) 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) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

As discussed in the respective sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of identified measures in the Downtown Strategy 2040 FEIR and DSAP PEIR. As discussed in *Section 4.4 Biological Resources* of this Initial Study, the project would not significantly impact sensitive habitat or species with the implementation of the identified measures. There is a potential for buried archaeological (historic and prehistoric) and paleontological resources to occur on-site. The construction of the proposed project may also impact the historically significant West Julian Street Underpass.

Implementation of the standard permit conditions and mitigation measures identified in *Section 4.5 Cultural Resources* and *Section 4.12 Noise and Vibration* of this Initial Study would avoid or reduce impacts to cultural resources to a less than significant level. The project would not result in new or more significant impacts than identified in the certified DSAP PEIR and Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

2) Does the project have impacts that are individually limited, but cumulatively considerable? **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” 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.

4.21.1.1 *Air Quality*

The proposed project would not exceed the BAAQMD screening thresholds requiring the evaluation of operational and construction criteria pollutants which are 489 rooms and 554 rooms, respectively, for a hotel, and 511 units and 252 units, respectively, for a condominium building. The project is, however, part of the planned growth in the Downtown area and would contribute to the significant operational emissions forecast from buildout of the full development program evaluated in the Downtown Strategy 2040 FEIR, which was found to result in a significant and unavoidable regional criteria pollutant impact from operations. To reduce emissions associated with vehicle travel, future development with the downtown area would be required to implement a TDM plan, consistent with the Downtown Strategy 2040 FEIR. The project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. In combination with other development in the Downtown area, the contribution of condominiums and hotel rooms would not result in a substantial contribution to health risks related to the criteria pollutant emissions of the larger Downtown Strategy 2040. Therefore, the project would result in the same impacts to regional criteria pollutants and their associated health effects as were disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

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* of this Initial Study). **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

4.21.1.2 *Greenhouse Gas Emissions*

The project includes measures to reduce GHG emissions such as a TDM program and LEED certification. However, the project would contribute to the Downtown Strategy 2040 GHG emissions

that were significant and unavoidable due to 2040 emissions levels. **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

4.21.1.3 *Noise and Vibration*

The proposed project would contribute to significant unavoidable cumulative noise (specifically traffic noise levels) impacts that were identified in the DSAP and Downtown Strategy 2040 FEIRs as a result of Downtown Strategy 2040 buildout. The proposed project would not, however, increase the severity of the cumulative noise impacts disclosed in the DSAP PEIR. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

4.21.1.4 *Transportation/Traffic*

The project's contribution to cumulative transportation impacts were analyzed in the certified Downtown Strategy 2040 FEIR. The proposed project would implement a TDM program and would not cause cumulative traffic impacts to become more significant than the impacts disclosed in the DSAP PEIR and Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Significant and Unavoidable Impact)]**

4.21.1.5 *Cumulative Impacts Conclusion*

With the implementation of the measures included in the proposed project, the project would not significantly impact biological resources, cultural resources, geology and soils, hazardous materials, and hydrology and water quality and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forestry resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project's cumulative impact on aesthetics, air quality, greenhouse gas emissions, land use, noise, population and housing, public services, recreation, transportation/traffic, and utilities were analyzed in the certified Downtown Strategy 2040 FEIR. The project would not result in any new or more significant cumulative impacts than the approved DSAP PEIR and Downtown Strategy 2040 FEIR. Consistent with the requirements for future development under the DSAP and the Downtown Strategy 2040, the measures included in the DSAP PEIR and Downtown Strategy 2040 FEIR will be implemented by the proposed project.

There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a new or greater cumulatively considerable impact not previously identified by the DSAP PEIR and Downtown Strategy 2040 FEIR.

-
- 3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? **[Same Impact as Approved Project (Less than Significant Impact)]**
-

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes

to the environment of human beings in general, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include hazardous materials, noise, and air quality. Implementation of the measures included in the project and compliance with City's measures identified in the DSAP PEIR and Downtown Strategy 2040 FEIR would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified to result from the project. **[Same Impact as Approved Project (Less Than Significant Impact)]**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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SECTION 7.0 ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos containing material
BAAQMD	Bay Area Air Quality Management District
BMP	Best Management Practice
Caltrans	California Department of Transportation
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CARB	California Air Resources Board
CBC	California Building Standards Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CEQA	California Environmental Quality Act
CMP	Congestion Management Program
CNEL	Community Noise Equivalent
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dB	decibel(s)
DNL	Day/Night Average Sound Level
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
GHG	greenhouse gas
HCM	Highway Capacity Manual
ITE	Institute of Transportation Engineers
LTA	Level Transportation Analysis
MBTA	Migratory Bird Treaty Act
MND	Mitigated Negative Declaration
MRP	Municipal Regional Stormwater NPDES Permit

MT	metric ton(s)
MTC	Metropolitan Transportation Commission
NHPA	National Historic Preservation Act
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NOD	Notice of Determination
NOI	Notice of Intent
OITC	Outdoor-Indoor Transmission Class
PDA	Priority Development Area
PM	particulate matter
PPV	Peak Particle Velocity
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Needs Allocation
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCS	Sustainable Communities Strategy
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SMARA	Surface Mining and Reclamation Act
STC	Sound Transmission Class
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
UST	Underground storage tank
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	Urban water management plan
WPA	Works Progress Administration