

Initial Study/Addendum
Carlisle Mixed-Use Project

File No. SP20-020 & T19-041

Prepared by the



In Consultation with



June 2020

ADDENDUM TO THE DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2003042127)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 EIR, because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

SP20-020/T19-041 (previously H18-025) – Carlyle Mixed-Use. A Site Development Permit to demolish an existing single-story, 8,900-square foot commercial building, currently occupied by a pet shop and a vacant store space, a surface parking lot, and a fenced open space area, and to construct a 21-story mixed-use building with 290 residential units, approximately 123,479 square feet of office, and approximately 7,951 square feet of ground level retail space.

The proposed building would be approximately 558,907 square feet, and would be 21 stories in height, with 11 residential floors and a roof deck with amenities. Parking would be located on the second, third, and fourth floors of the proposed building. The maximum building height is approximately 249.5 feet above grade.

Location: 51 Notre Dame Avenue, on the north side of Carlyle Street, between Notre Dame Avenue and North Almaden Boulevard

Assessor’s Parcel Number: 259-35-026, 027, 032, 033

Council District: 3

The environmental impacts of this project were addressed by the following Final Environmental Impact Reports: “The Downtown Strategy 2040 Final Environmental Impact Report,” adopted by City Council Resolution No. 78942 on December 18, 2018. The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that “A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred.” Circumstances which would warrant a subsequent EIR include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIR due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

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

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

BACKGROUND

Downtown Strategy 2040

In December 2018, the City of San José certified the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Downtown Strategy 2040 FEIR is necessary to respond to changed environmental

circumstances and conditions since Downtown Strategy 2000 was adopted by the City Council in 2005 (as described above).

The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy is necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development.

ANALYSIS

The project is a mixed-use building with 290 residential unit, approximately 123,479 square feet of office, and approximately 7,951 square feet of ground floor retail space within the Downtown Strategy area. As analyzed in the attached Initial Study, the project has conducted project-level analysis and disclose potential project-level impacts. Consistent with the Downtown Strategy 2040 EIR, the project will implement conditions and mitigation measures to reduce all potential impacts to a less than significant level.

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

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

Rosalynn Hughey, Director
Planning, Building and Code Enforcement



Deputy

6/18/2020

Date

Environmental Project Manager: Bethelhem Telahun

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Appendix E1:	Local Transportation Analysis
Appendix E2:	Transportation Demand Management Plan

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY/ADDENDUM

The City of San José, as the Lead Agency, has prepared this Initial Study (IS)/Addendum to the *San José Downtown Strategy 2040 Final Environmental Impact Report* (Downtown 2040 FEIR) for the proposed development of a 21 story, mixed-use building in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California. The purpose of the IS/Addendum is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

1.1.1 Envision San José 2040 General Plan

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

In December 2015, the City of San José approved the *Envision San José 2040 Plan Supplemental FEIR* (General Plan SFEIR) for the General Plan to include an updated greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR, SFEIR, and addenda thereto for the purpose of reducing the estimated job capacity to 751,650, representing a reduction of approximately 87,800 jobs. The number of residential units remained the same.

1.1.2 San José Downtown Strategy 2000

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

The Downtown Strategy 2000 has a development capacity of 8,500 residential dwelling units, 11.2 million square feet of office, 1.4 million square feet of retail development, and 3,600 hotel rooms.

The Downtown Strategy 2000 FEIR evaluated all environmental impacts, including traffic, noise, air quality, biological resources, and land use at a program (General Plan) level. The program-level environmental impacts were updated as part of the General Plan FEIR, SEIR, and Addenda thereto, certified in September 2011 and supplemented in December 2015 (refer to Section 1.1.1).

Further, an IS/Addendum to the Downtown Strategy FEIR was prepared in July 2016 which updated traffic conditions a decade after the Downtown Strategy FEIR was certified, and determined that no new impacts would occur related to the construction of Phase 1 of the Downtown Strategy (2,000,000 square feet of office space). Utilizing 2014-2015 traffic counts and the City's updated CUBE model, it was determined that up to 2,000,000 square feet of office space could be constructed within downtown without resulting in new or different traffic impacts than had been disclosed in the Downtown Strategy FEIR. For this reason and those described above, the Downtown Strategy FEIR continues to be an accurate evaluation of program-level impacts of proposed Phase 1 development projects Downtown.

1.1.3 San José Downtown Strategy 2040 Final Environmental Impact Report

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

The Downtown Strategy 2040 is an update and replacement of the Downtown Strategy 2000 adopted by the City Council in 2005. The new Downtown Strategy is necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development.

This IS/Addendum has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy 2040 EIR.

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

1.2 NOTICE OF DETERMINATION

If the project is approved, the City of San José 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

The Carlisle Mixed-Use Project

2.2 LEAD AGENCY CONTACT

Bethelhem Telahun, Planner
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San Jose, CA 95113
Phone: (408) 535-5624
Email: Bethelhem.Telahun@sanjose.ca.gov

2.3 PROJECT APPLICANT

Acquity Realty, Inc.
333 W. Santa Clara Street, Suite 810
San Jose, CA 95113

2.4 PROJECT LOCATION

The project site is located at 51 Notre Dame Avenue on the north side of Carlisle Street, between Notre Dame Avenue and North Almaden Boulevard in downtown San José. The project site is shown on the following figures:

- Figure 2.4-1 Regional Map
- Figure 2.4-2 Vicinity Map
- Figure 2.4-3 Aerial Photograph and Surrounding Land Uses

2.5 ASSESSOR'S PARCEL NUMBERS

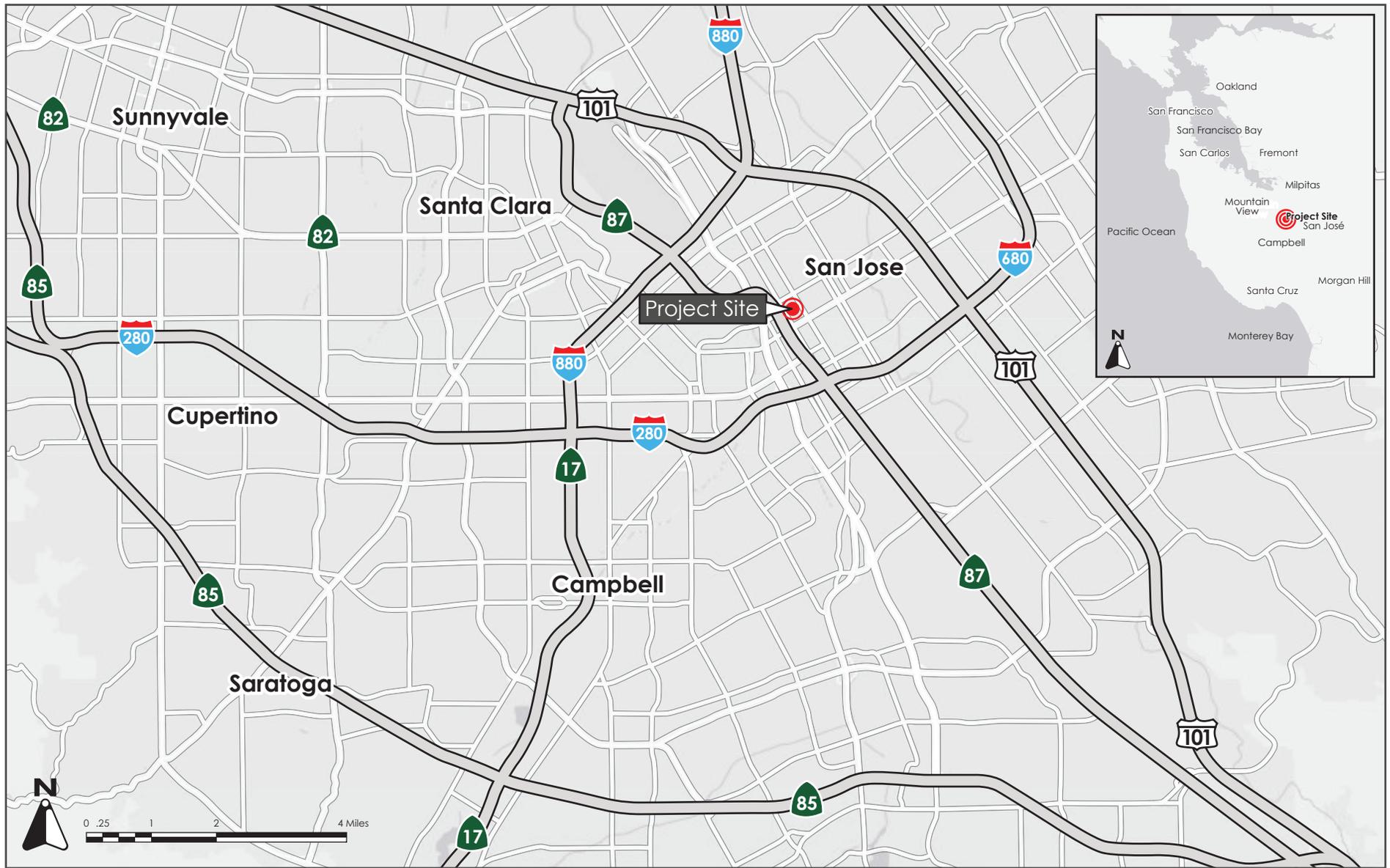
259-35-026, 027, 032, 033

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The General Plan land use designation for the project site is DT Downtown and the site is zoned DC Downtown Primary Commercial District.

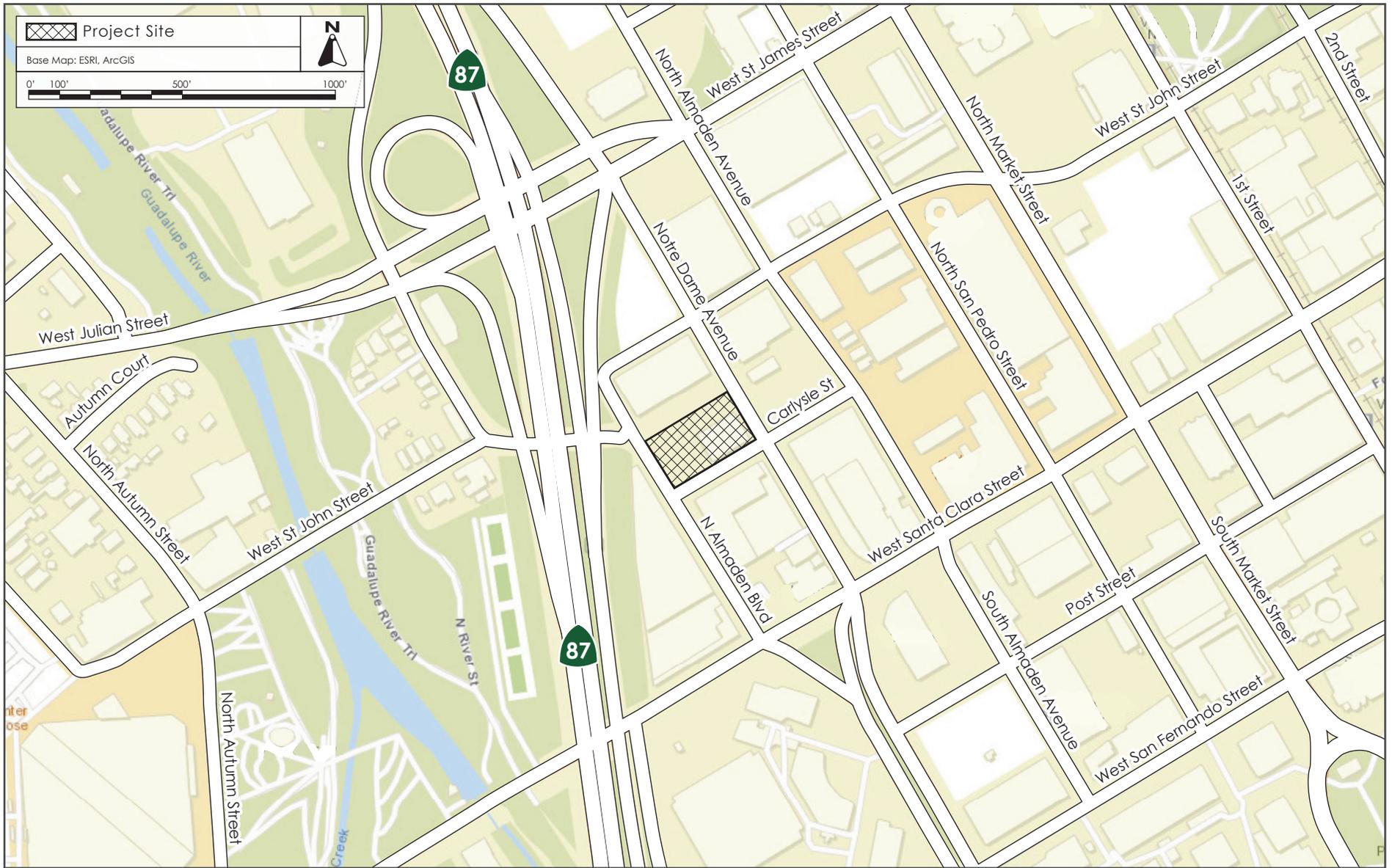
2.7 HABITAT PLAN DESIGNATION

The project site is designated Private Development Area 4: Urban development equal to or greater than 2 acres covered (0.4 acres) on the Santa Clara Valley Habitat Plan and has a Land Cover designation of Urban-Suburban. The site is not in a designated land cover fee zone.



REGIONAL MAP

FIGURE 2.4-1



 Project Site	
Base Map: ESRI, ArcGIS	
	

VICINITY MAP

FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Development of the proposed project will require the following discretionary permit approvals by the City of San José:

- Site Development Permit
- Grading Permit
- Demolition, Grading, Building, and Occupancy Permits
- Other Public Work Clearances

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

The project proposes to demolish an existing 8,890-square foot single-story commercial building and construct a 21-story building containing 123,479 square feet of office space, 290 residential units, 7,951 square feet of commercial retail space, and three floors of garage parking on a 0.67-acre site.

3.1.1 Existing Setting

The proposed project site is comprised of four parcels (APNs 259-35-026, 027, 032, and 033), located on the north side of Carlisle Street, between Notre Dame Avenue and Almaden Boulevard in downtown San José. There is an existing building of approximately 8,900 square feet containing a pet shop and a vacant store space on the site, at 51 Notre Dame Avenue. The remainder of the property contains surface parking and a fenced open space area. The site is surrounded by surface parking and a vacant single-story former courthouse building and judo studio to the north, a high-rise residential building to the east, a residential mixed-use high-rise building to the south, and a parking garage and the State Route 87 (SR 87) freeway to the west. Notre Dame Avenue becomes the northbound on-ramp to SR 87 after it crosses West Julian Street, two blocks north of the site. Access to the southbound ramp to SR 87 is provided from West Julian Street on the west side of the freeway.

3.2 PROPOSED DEVELOPMENT

The proposed project would demolish the existing building on-site and construct a 21-story mixed-use building containing 290 residential units, approximately 123,479 square feet of office, and approximately 7,951 square feet of ground floor commercial retail space. The ground floor of the building would have a café and a restaurant on opposite corners (fronting on Carlisle Street/Almaden Boulevard and Notre Dame Avenue, respectively). In addition, the ground floor would have separate office and residential lobbies, each with its own elevator. A leasing office, mail room, storage room, co-working space, and bicycle storage facility would also be located on the ground floor. The garage entrance driveway would be located on North Almaden Boulevard, at the northwest corner of the building. A partial basement floor would contain storage areas, electrical and mechanical equipment rooms, an emergency generator, a fire pump, and a fire water storage room.

The project would construct new sidewalks and ADA ramps, and install street trees. The areas behind the sidewalks and at the building entrances would feature accent paving, raised planters, and sculptural seating elements. The project would remove and replace approximately nine existing trees on the site; five of the trees proposed for removal are ordinance sized (circumference of greater than 38 inches when measured at four feet above ground). The project would include security lighting, parking garage lighting, and decorative outdoor lighting.

Parking would be located on the second, third and fourth floors of the proposed building. The office space would be located on the fifth through ninth floors and the residential units would occupy the tenth through twentieth floors. The residential units would be a mix of studio, one-bedroom and two-bedroom units. The top floor (roof deck) of the building would contain amenity space featuring a pool, spa, fitness room, lounge area, changing room, BBQ grills and countertops, tables, seating areas and landscaping. The top floor would also provide five residential units (three one-bedroom units and

two two-bedroom units). Terraces would be located on the fifth, sixth and tenth floors and would feature BBQ grills and countertops, tables, seating areas and landscaping. In addition to common open space (amenity) features, the terrace on the tenth floor has fenced private open space areas with gates that provide direct access from the residential units to the amenity area. The terraces on the fifth and sixth floors would be reserved for office uses. The amenity spaces on the tenth floor and roof would be provided for both residential and office uses. The ground floor site plan, building sections, building elevations and rooftop amenities are shown on Figures 3.2-1 through 3.2-6. The proposed building tabulation is summarized below in Table 3.2-1.

Table 3.2-1: Proposed Building Tabulation		
Building Level	Use	Gross Square Feet
B	Storage	16,981
1	Retail/Restaurant, Lobbies, Amenities, Bicycle Parking	24,368
2-4	Parking	83,999
5-9	Office	136,096 ¹
10-20	Residential	272,706
21	Residential, Amenities, Common Space	23,599
Notes:		
¹ The square footage of office listed includes common areas, mechanical, electrical and plumbing (MEP), building core, and circulation, thus it is higher than the 123,479 square feet of usable office space described previously. The square footage of other improvements (e.g. common areas, MEP, etc.) is considered as part of the overall impacts of the project throughout this IS/Addendum.		

In total, the proposed building would provide 558,907 gross square feet of floor space and reach a maximum height of approximately 249 feet, six inches. The gross residential density of the project would be 435 dwelling units per acre (du/ac).

3.2.1 Site Access, Parking and Circulation

Vehicular access to the parking garage levels would be provided via a driveway on North Almaden Boulevard, on the west side of the site. The project would provide a total of 330 vehicular parking stalls. Of these, 290 stalls would be designated for residential use and 40 stalls would be designated for non-residential use. The majority of the vehicle parking stalls would be configured two-tier mechanical stacking devices. The project proposes to use a valet parking service for up to 54 cars. A total of 108 bicycle parking spaces are proposed, with 73 designated for residential use and 35 designated for office use. There are no designated bicycle spaces for retail uses.

There are existing sidewalks along Notre Dame Avenue, North Almaden Boulevard and Carlisle Street that provide pedestrian access to the project site and surrounding uses. The project would remove the existing sidewalks and construct new curb, gutter, and sidewalks on the project frontages, as well as a pedestrian rapid flashing beacon at the crosswalk on Notre Dame Avenue at Carlisle Street. There are Class II bicycle lanes running north in Notre Dame Avenue and south in North Almaden Boulevard which would provide bicycle access to the site.

3.2.2 Transportation Demand Management

The project is proposing to implement a Transportation Demand Management (TDM) Plan to qualify for reduced parking, consistent with City's requirements. The TDM Plan would include measures to reduce the project's VMT such as a carpool/vanpool or car share program, preferential parking with charging stations for electric or alternatively fueled vehicles and a bicycle share program or free use of bicycles for office tenants.

3.2.3 Green Building Measures

The project would comply with the City's Private Sector Green Building Policy. This would be met through community design and planning, site design, landscape design, building envelope performance, and material selections.

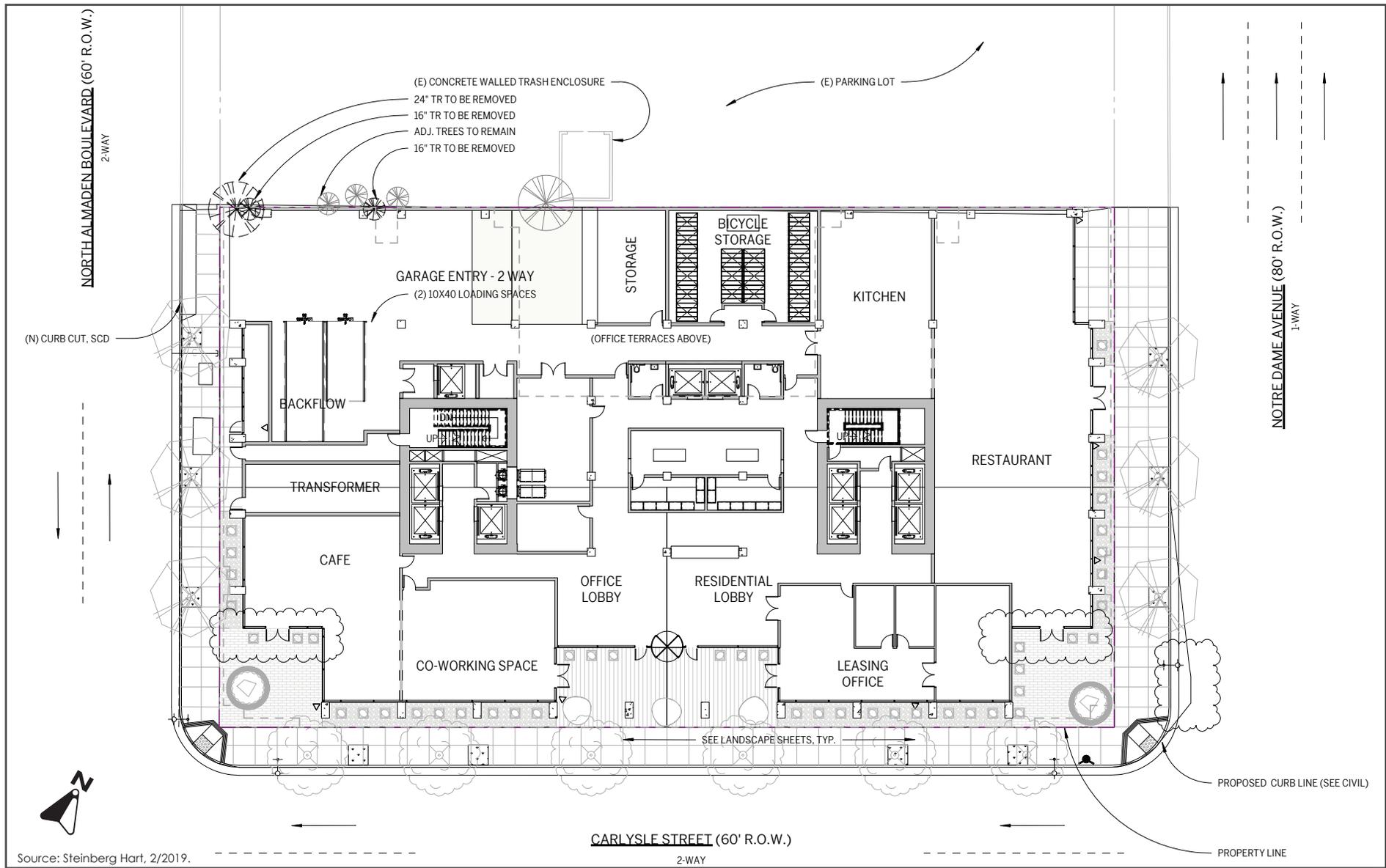
3.2.4 Utility Improvements

The existing utilities in the project area would serve the proposed mixed-use project. Existing overhead utility wires will be placed underground along the Notre Dame Avenue frontage with the project. Two new sanitary laterals from the proposed building would connect to the existing sanitary main in Carlyse Street.

The project proposes to construct two new curb inlet catch basins along North Almaden Boulevard. One would connect to the existing manhole at the intersection of North Almaden Boulevard and Carlyse Street, and the other would connect to a new manhole in North Almaden Boulevard to be constructed by the project. The project's stormwater media filter device would connect to the new manhole. All stormwater runoff generated on-site by the project would be treated with the media filter device prior to being conveyed to the new manhole in the street. An additional curb inlet is proposed to be constructed along the Carlyse Street frontage, which would connect to the existing storm drain line in the street.

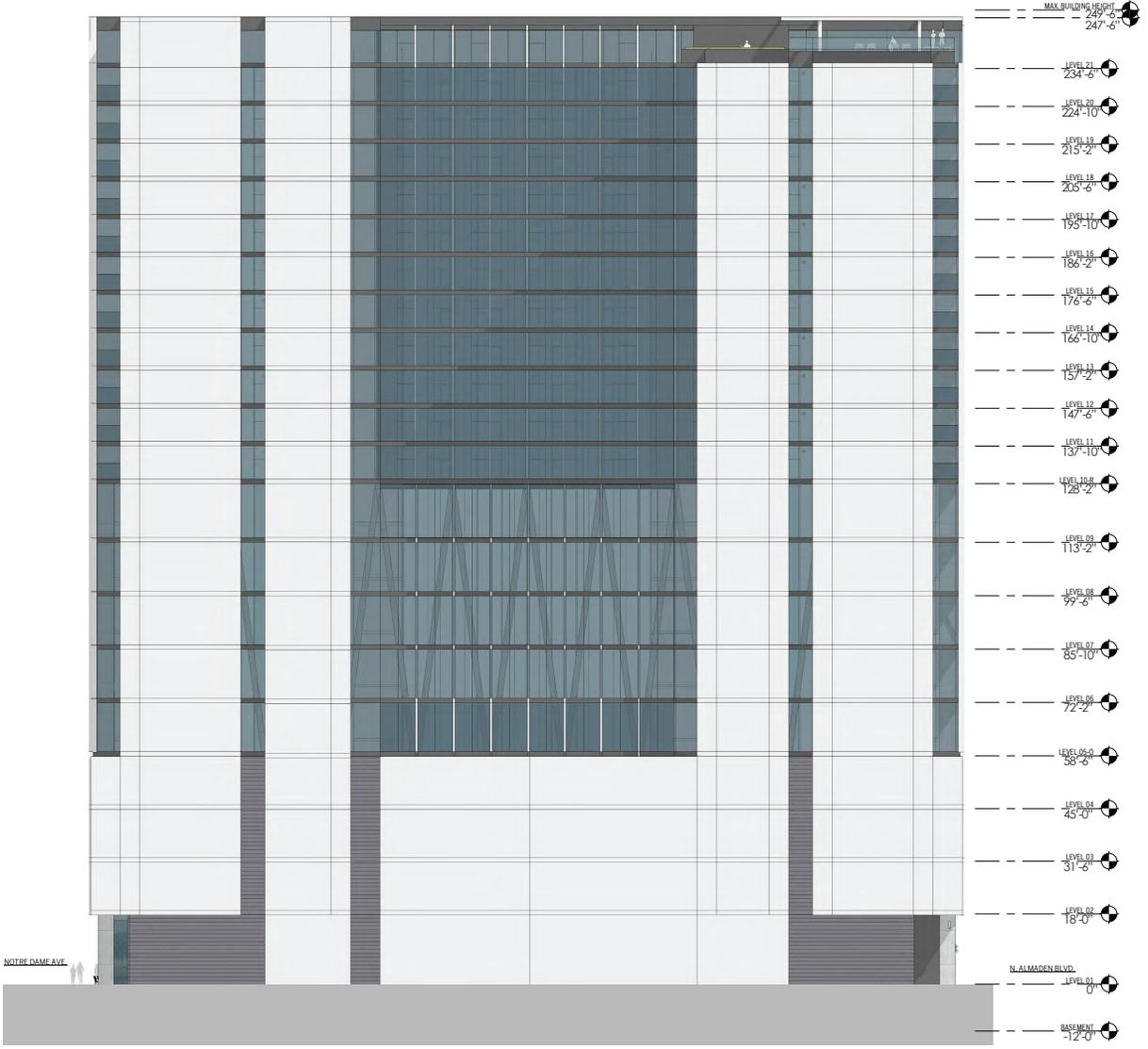
3.2.5 Construction Details

Construction of the project is anticipated to last 25 months, beginning in January 2021. Construction activities would include demolition of the existing building, paved parking areas, and sidewalks, site preparation, grading, trenching (including vibratory pile driving) and excavation, building foundation and building construction.



PROPOSED SITE PLAN

FIGURE 3.2-1

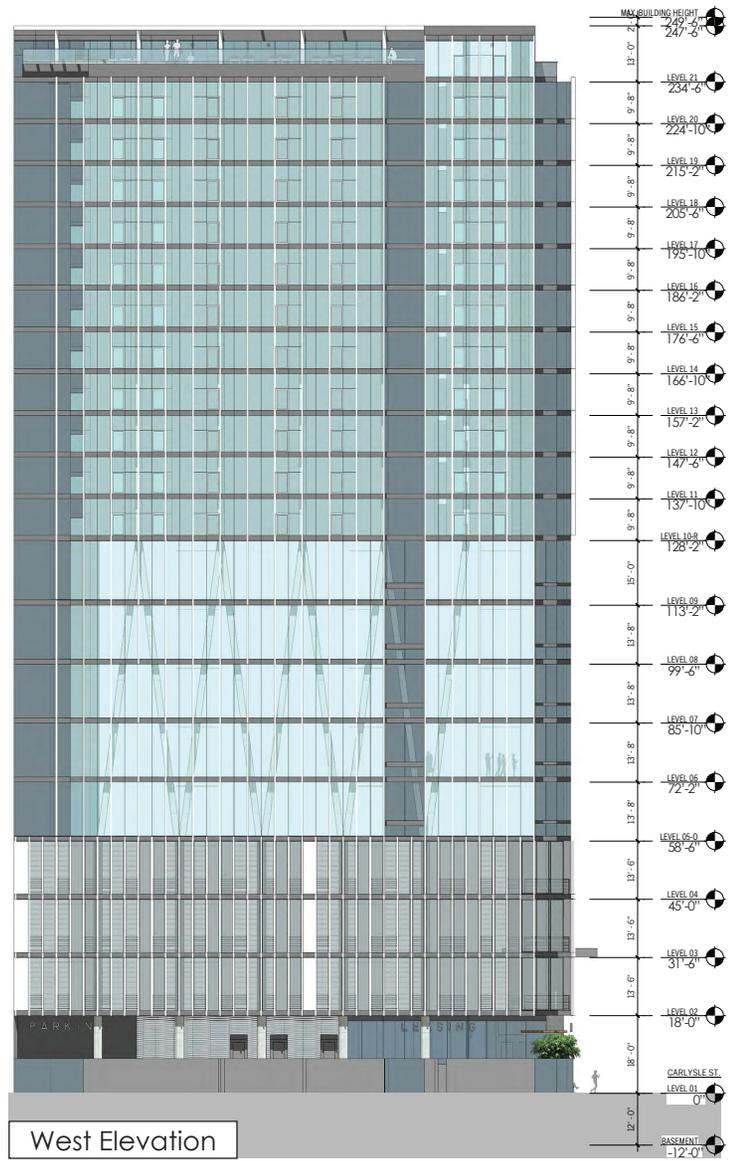
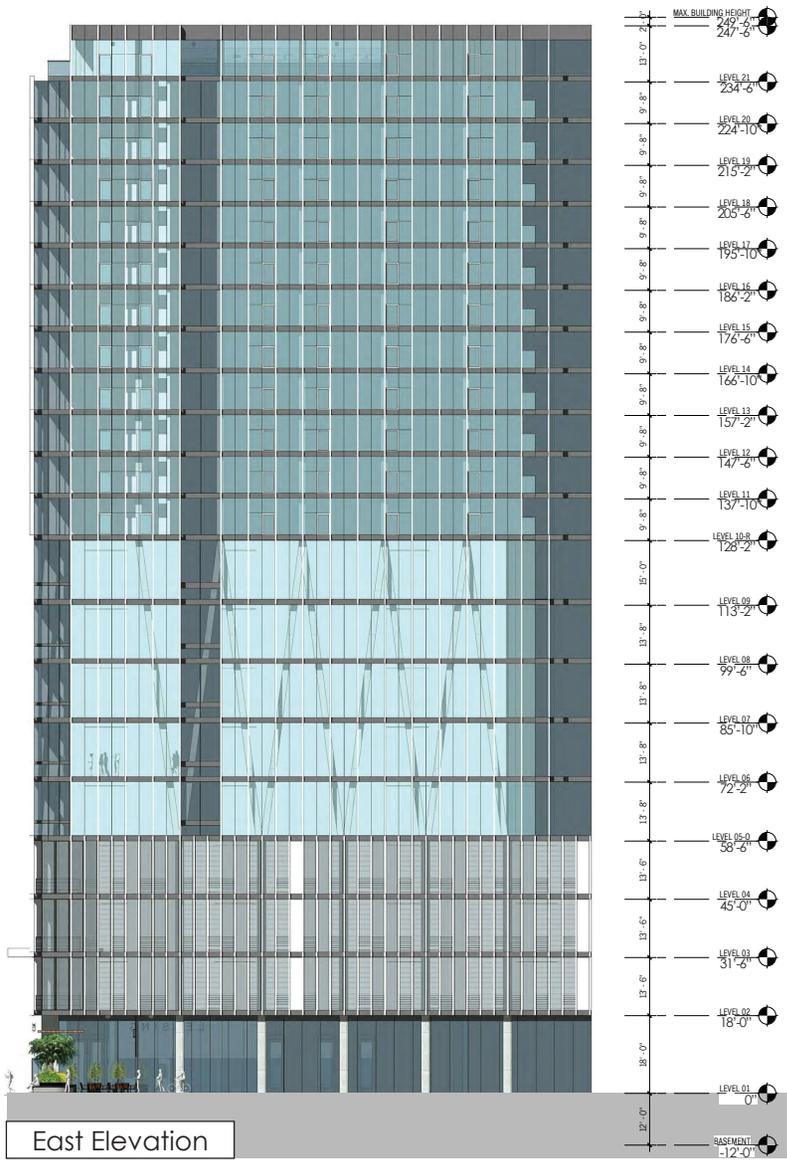


Source: Steinberg Hart, 2/2019.

NORTH ELEVATION

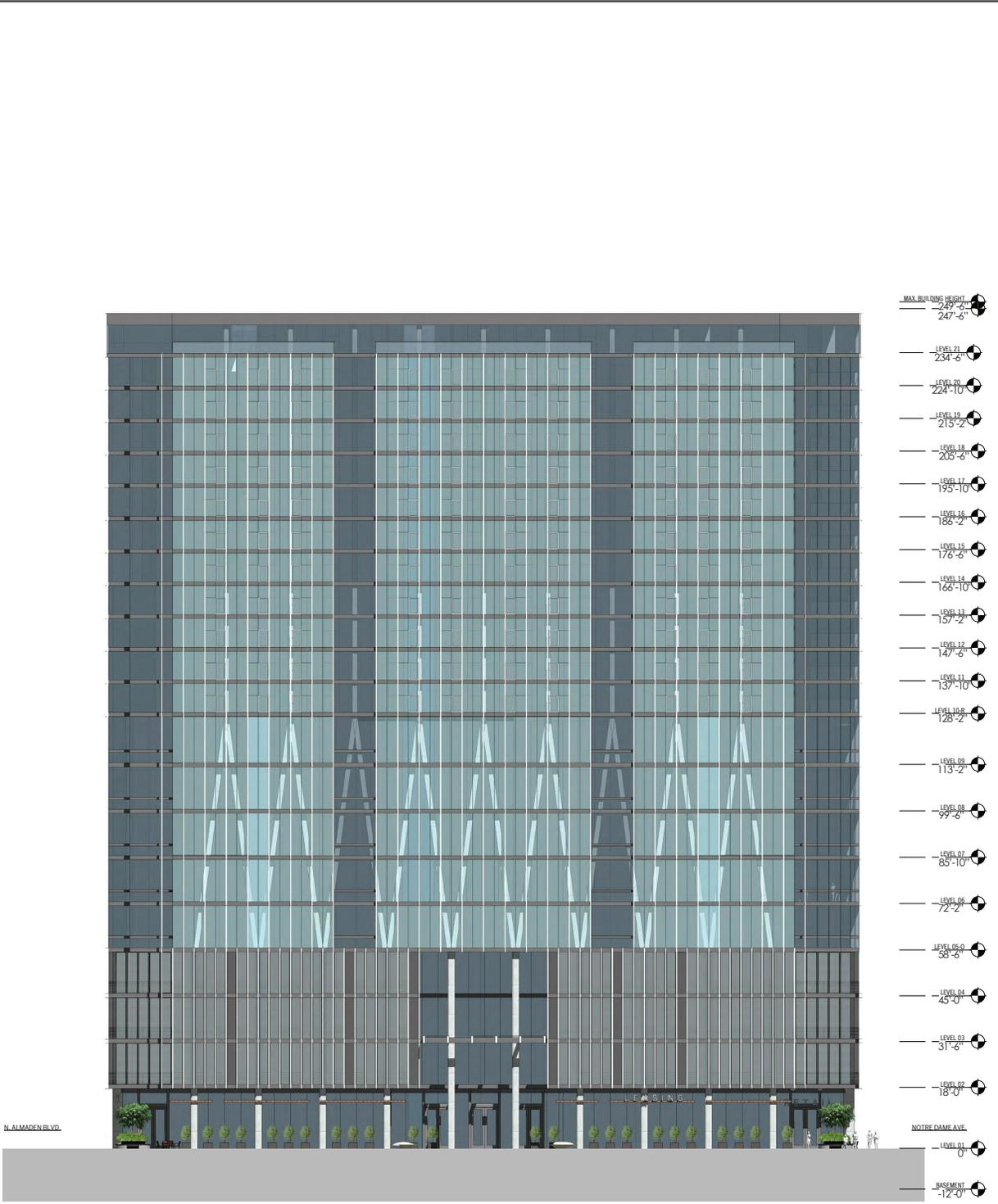
FIGURE 3.2-3

Source: Steinberg Hart, 2/2019.



EAST AND WEST ELEVATIONS

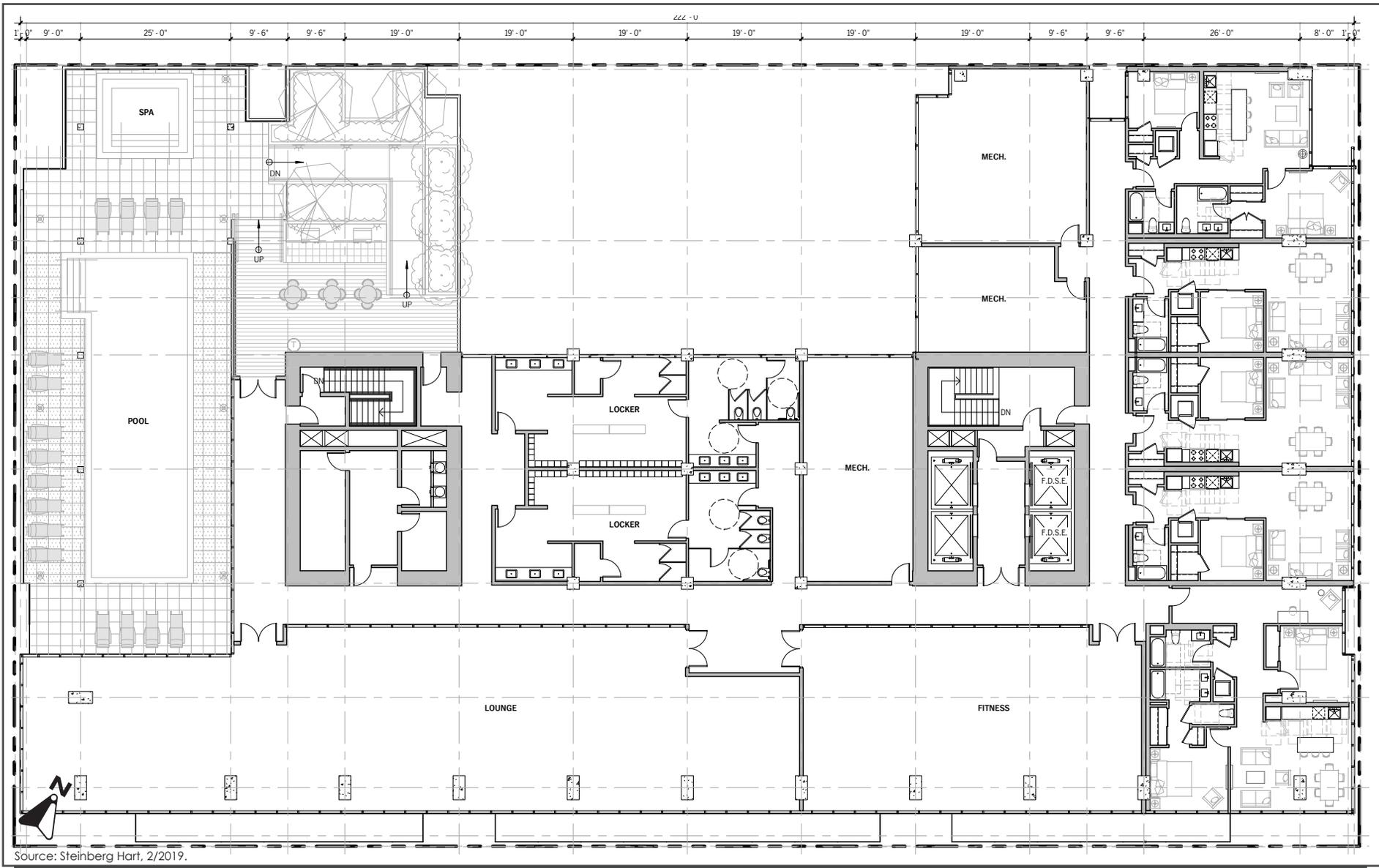
FIGURE 3.2-4



Source: Steinberg Hart, 2/2019.

SOUTH ELEVATION

FIGURE 3.2-5



ROOFTOP AMENITIES

FIGURE 3.2-6

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 BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS
4.1.1 Environmental Setting
4.1.1.1 *Regulatory Framework*

State

California Scenic Highway Program

The intent of the California Scenic Highway Program (Streets and Highway Code Sections 260 et seq.) is to provide and enhance California’s natural beauty and protect the social and economic values provided by the State’s scenic resources. The California Department of Transportation (Caltrans) defines a scenic highway as any freeway, highway, road, or other public right-of-way that traverses an area of exceptional scenic quality. Suitability for designation as a State Scenic Highway is based on vividness, intactness, and unity.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to visual character and scenic resources and would be applicable to the proposed project:

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground-level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.28	To maintain and protect the integrity, character, and aesthetic environment of the streetscape in industrial, commercial, and residential neighborhoods, new billboards should be permitted only through a discretionary review process and only where they do not create visual clutter and blight. The relocation of existing billboards from impacted areas to locations where they would have a less visually blighting effect should be encouraged.
CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate through sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.
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.
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.
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.
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.
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.

In addition to General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/00)
- San José Residential Design Guidelines
- San José Mid-Rise and High-Rise Residential Design Guidelines
- San José Commercial Design Guidelines
- San José Downtown Design Guidelines

4.1.1.2 Existing Conditions

Project Site

The 0.67-acre project site is located within an urban environment in the City's downtown area. The site is located at the northwestern quadrant of the Notre Dame Avenue and Carlisle Street intersection. The site is occupied by an existing single-story commercial building and an adjoining paved parking lot. The building occupies approximately 8,890 square feet of the site. Street-level views of the project site are shown in Photos 1 through 8 on the following pages. An oblique aerial view of the site and a view of the site from SR 87 are shown in Photos 9 and 10, respectively.

Surrounding Uses

The neighborhood surrounding the project site is characterized by commercial, office and residential uses. There are recently constructed high-rise mixed-use buildings containing ground floor commercial and office uses with residential units above, located across Notre Dame Avenue to the east and across Carlisle Street to the south. The site is located one block north of Santa Clara Street, which is the main east-west thoroughfare through the downtown area and contains hotels, office buildings, bars, restaurants and various commercial uses. The site is two blocks west of San Pedro Street, which contains numerous bars and restaurants. Surface parking lots and commercial/office buildings are located north of the site, and the SR 87 corridor is located across North Almaden Boulevard to the west of the site.

Scenic Views

The City of San José is located in the eastern portion of the Santa Clara Valley, between the Santa Cruz Mountains to the west and the Hamilton/Diablo Range to the east. The northern extension of the Santa Cruz Mountains contains peaks of 3,000 feet in elevation, and the Diablo Mountain range reaches a summit elevation of nearly 4,000 feet. These mountain ranges provide a scenic backdrop for the City of San José and the Silicon Valley as a whole, however views of the natural landscape are typically obstructed within the downtown area due to the scale of surrounding development (high- and mid-rise residential and commercial buildings). High-rise buildings and landmarks in downtown east of SR 87 could also be considered scenic resources.¹

Scenic Corridors

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment is crucial.² The nearest Gateway segment to the project site is South First Street from Willow Street to East San Salvador Street, approximately 0.6 mile southeast of the site. The City has designated SR 87, from the Highway 101 interchange to State Route 85, and Interstate 280 from the Interstate 880 intersection to Fair Oaks Avenue in Sunnyvale, as Urban Throughways. The nearest Urban Throughway segment to the project site is SR 87, approximately 150 feet west of the project site. The site is not located near the eastern part of the City; therefore, it is not visible from any Rural Scenic

¹ City of San José. *Downtown Strategy 2040 Draft Environmental Impact Report*. September 2018.

² City of San José. *Envision San José 2040 General Plan FEIR*. September 2011. Page 739.

Corridor.³ There are no state-designated scenic highways in San José. The nearest officially designated state scenic highway to the project site is SR 9, located approximately nine miles west of the site.⁴ Interstate 280 from the San Mateo County line to SR 17,⁵ which includes segments of San José, is an eligible, but not officially designated, State Scenic Highway. The project site is approximately 2.7 miles east of that segment.

Light and Glare

The existing site has been developed with commercial uses for many decades. Streetlights and other lighting is found throughout the area in the vicinity of the project. Sources of light and glare in the surrounding area are those typical of developed urban areas, including headlights, streetlights, parking lot lights, security lights, and reflective surfaces such as windows.

³ City of San José. “Scenic Corridors Diagram”. Accessed December 3, 2019.

<http://www.sanjoseca.gov/index.aspx?NID=3368>

⁴ California Department of Transportation. *California Scenic Highway Mapping System*. Accessed December 3, 2019. http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm.

⁵ The segment at SR 17 is the same segment identified as one of the City’s Urban Throughways.



Photo 1 Looking west along the project site frontage on Carlisle Street.



Photo 2 Looking east along the project site frontage on Carlisle Street.



Photo 3 Looking north along the project site frontage on Notre Dame Avenue.



Photo 4 Looking south along the project site frontage on Notre Dame Avenue.



Photo 5 Looking west along the site's northern boundary.



Photo 6 Looking east along the site's northern boundary.



Photo 7 Looking south along the project site frontage on Almaden Boulevard.



Photo 8 View of the site from the project site frontage on Almaden Boulevard.

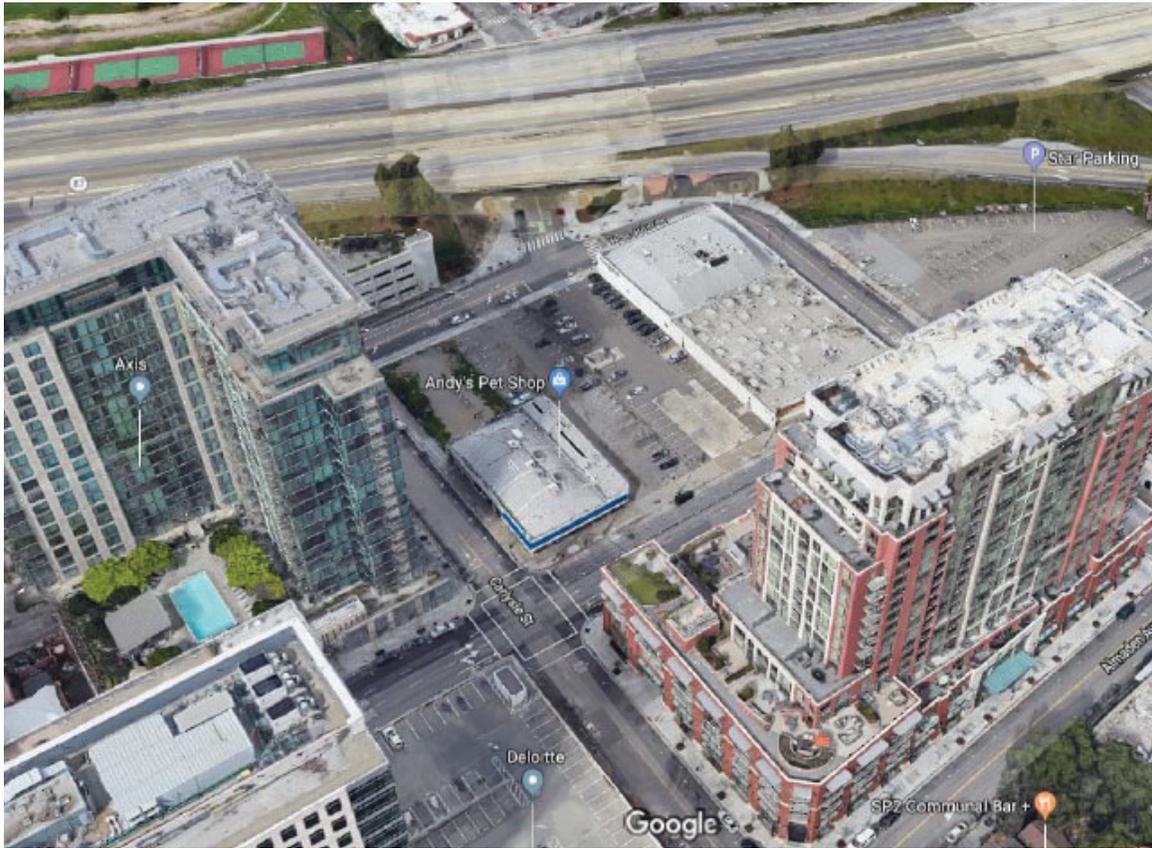


Photo 9 Oblique aerial view of the project site and surrounding development.

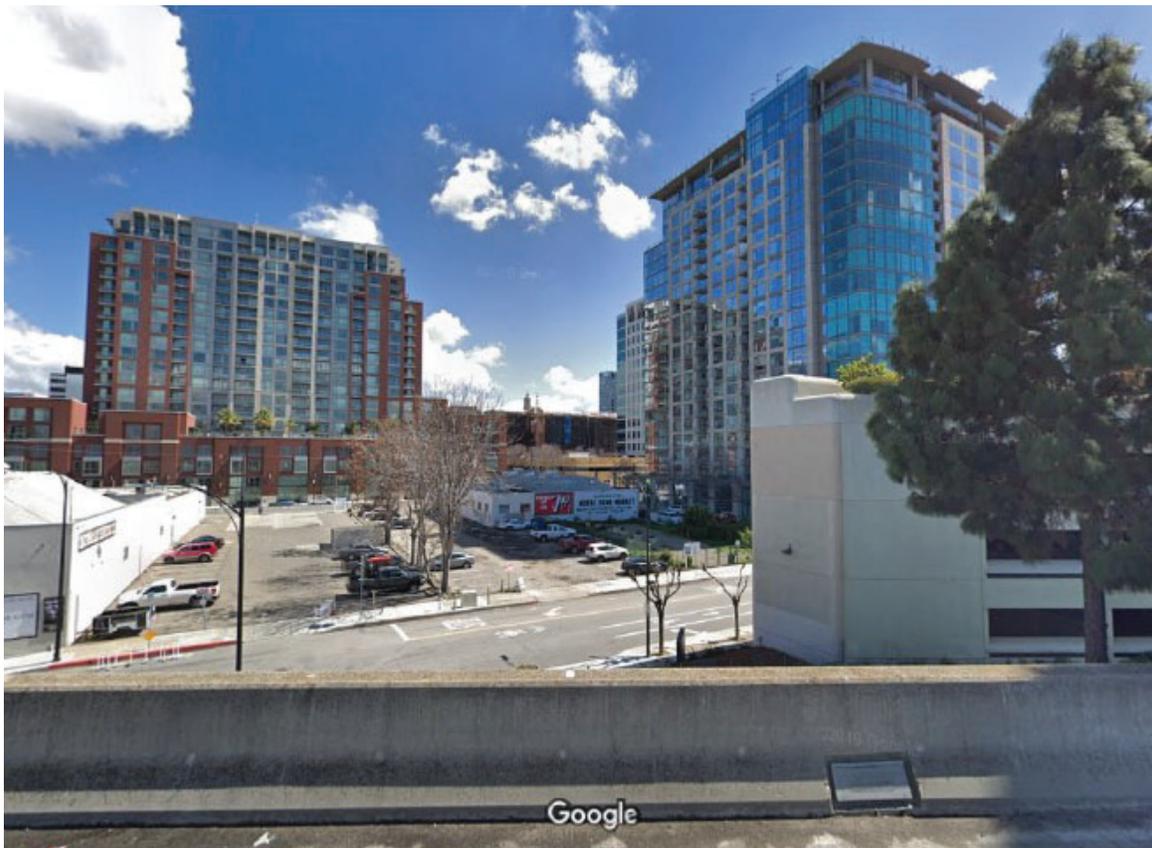


Photo 10 View of the project site and surrounding development from SR 87 northbound.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? 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 checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

The area surrounding the project site is urban. While the proposed building may obstruct the views of nearby residences of the urban area, it would be consistent with the predominantly urban form of the surrounding area. There are no designated scenic vistas, highways, or rural scenic routes within the vicinity of the project site. Redevelopment of the site, as proposed by the project, would not substantially alter any scenic vistas in the project area. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The nearest designated scenic highway is SR 9, located approximately nine miles west of the site. SR 9 is not visible from the site and would not be impacted by the proposed development. The project would not result in a substantial adverse effect on any scenic vistas, nor would the project substantially damage scenic resources within a state scenic highway. Therefore, the project's impacts to scenic resources would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located in an urbanized area, surrounded by a mix of residential, office, and commercial uses. The proposed maximum building height of 249 feet, six inches would be consistent with the City's Zoning Ordinance standards for allowable building heights. The project would be consistent with the size and scale of nearby buildings, including the 22-story Axis condominium building located directly across Carlisle Street to the south of the site, and the 20-story Centerra apartment building across Notre Dame Avenue to the east of the site. The proposed ground-level commercial and office uses would provide connectivity to the existing first floor commercial uses of these neighboring mixed-use buildings.

The City has established policies regarding new public and private development adjacent to freeways. General Plan Policy CD-10.2 requires new developments adjacent to Gateways, freeways, and Grand Boulevards to consist of high-quality materials, and contribute to a positive image of San José. General Plan Policy CD-10.3 requires that development visible from freeways be designed to preserve and enhance attractive natural and man-made vistas. The project would be reviewed for conformance to the City's Downtown Design Guidelines and Residential Design Guidelines to ensure these policies are adhered to. For these reasons, the proposed project would not conflict with zoning or other regulations regarding scenic quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is currently developed and located in an urban area with residential, office, and commercial development. The 21-story development proposed by the project would include security lights, parking garage lights, and decorative outdoor lighting. The amount of nighttime lighting would incrementally increase as a result of the proposed project. San José City Council Policy 4-3 calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. All lighting installed by the project would be full-cutoff lighting⁶, designed in conformance with City Council Policy 4-3. Design and construction of the project in conformance

⁶ Full cut-off lighting is a lighting fixture that projects all of its light in a downward direction.

with General Plan design and lighting policies would ensure the project would not create a new source of nighttime light that would adversely affect views in the surrounding area.

The design of the proposed project would also be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Design Guidelines. As a result, the project would not significantly impact adjacent uses with daytime glare from building materials. **[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 Framework*

State

California Farmland Mapping and Monitoring Program

The California Farmland Mapping and Monitoring Program (FMMP) produces maps and statistical data for analyzing impacts on California’s agricultural resources. Agricultural land is rated according to soil quality and irrigation status, and the best quality land is categorized as Prime Farmland. The maps are updated every two years with the use of a computer mapping system, aerial imagery, public review, and field reconnaissance.

The California Land Conservation Act of 1965 (Williamson Act) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. A Williamson Act contract prevents the development or conversion of open space and/or farmland for the duration of 10 years, or until a contract is renewed.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to agricultural resources and are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Agricultural Resources Policies

Policy	Description
LU-12.3	Protect and preserve the remaining farmlands within San José’s sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: <ul style="list-style-type: none">• Limit residential uses in agricultural areas to those which are incidental to agriculture.• Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.• Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.• Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

4.2.1.2 Existing Conditions

The current land use of the project site is commercial, and it is not used for agricultural or timberland purposes. The area in the vicinity of the project site is highly developed, comprised of a mix of residential, office, and commercial. The *Santa Clara County Important Farmlands 2016 Map* designates the project site as “Urban and Built-Up Land”, which is defined as land with at least six structures per 10 acres. Common examples of “Urban and Built-Up Land” are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses.⁷ The site is not under a Williamson Act contract.⁸

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) 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 checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) 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 checked="" type="checkbox"/>	<input type="checkbox"/>

As discussed below, the proposed project would not result in a new or greater impact on agriculture and forestry resources than was previously disclosed in the Downtown Strategy 2040 FEIR.

⁷ California Natural Resources Agency. *Santa Clara County Important Farmland 2016*. Accessed November 26, 2019. <https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx>

⁸ County of Santa Clara. “Williamson Act and Open Space Easement”. September 17, 2018. Accessed November 26, 2019. <https://www.sccgov.org/sites/dpd/programs/wa/pages/wa.aspx>

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

There is no designated Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on or near the site. Any proposed redevelopment of the site would not impact agricultural resources by conversion to a non-agricultural usage. **[Same Impact as Approved Project (No Impact)]**

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

The current zoning of the project site is consistent with the proposed use as a residential and commercial mixed-use development, and there would be no conflict with any agricultural zoning. **[Same Impact as Approved Project (No Impact)]**

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

The project site is located within a densely urbanized area that is designated for commercial and residential uses. The site is not zoned, or adjacent to any zoning, for forest land or timberland. No rezoning is proposed under the project. **[Same Impact as Approved Project (No Impact)]**

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

The proposed project would redevelop a site that is zoned for commercial and residential uses in an urban area of San José. No forest land would be lost as a result of the project, nor would forest land be converted to non-forest use. **[Same Impact as Approved Project (No Impact)]**

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

The proposed project is to be located within a densely urbanized area that is designated for commercial and residential uses. Therefore, it will not result in any impacts to agricultural or forestry resources. The project would have no impacts to agricultural or forest lands, consistent with the findings of the Downtown Strategy 2040 EIR. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based, in part, on an air quality assessment prepared for the project by Illingworth & Rodkin, Inc. A copy of the report, dated March 13, 2020, is included in Appendix A of this IS/Addendum.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O₃), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.⁹ Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants		
Pollutants	Sources	Primary Effects
O ₃	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	<ul style="list-style-type: none"> • Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO ₂)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	<ul style="list-style-type: none"> • Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter (PM _{2.5}) and Coarse Particulate Matter (PM ₁₀)	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	<ul style="list-style-type: none"> • Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	<ul style="list-style-type: none"> • Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

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

⁹ The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

reduce O₃ levels. The highest O₃ levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

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

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). 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, according to the California Air Resources Board (CARB). Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).¹⁰ Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by CARB.

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools, and parks. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

The project would introduce new sensitive receptors to the area. The closest sensitive receptors to the project site are multi-family residences to the south of the project site opposite Carlisle Street and multi-family residences to the east of the project site opposite Notre Dame Avenue. Additional existing and future single- and multi-family residences are located at further distance.

¹⁰ California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed March 17, 2020. <https://www.arb.ca.gov/research/diesel/diesel-health.htm>.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O₃, CO, SO_x, NO_x, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. “Attainment” status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in addition to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_x.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will 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 gases (GHGs) that are potent

climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.¹¹

CEQA Air Quality Guidelines

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

Local

Envision San José 2040 General Plan

In connection with the implementation of BAAQMD’s 2017 CAP, various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

Envision San José 2040 General Plan Relevant Air Quality Policies

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region’s Clean Air Plan and State law.
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.
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.
MS-11.4	Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

¹¹ BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017. <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>.

MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Action MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Action MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.

4.3.1.3 *Significance Thresholds*

In June 2010, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA and these significance thresholds were contained in the District's 2011 CEQA Air Quality Guidelines. These thresholds were designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. The thresholds were challenged through a series of court challenges and were mostly upheld. BAAQMD updated the CEQA Air Quality Guidelines in 2017 to include the latest significance thresholds, which were used in this analysis and are summarized in Table 4.3-2.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	Single Source	Combined Cumulative Sources	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual PM _{2.5}	0.3 µg/m ³	0.8 µg/m ³ (average)	

4.3.1.3 Existing Conditions

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the State and federal level. The Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM₁₀), and fine particulate matter (PM_{2.5}). As previously mentioned, the closest existing sensitive receptors are the residences immediately south and east of the project site.

4.3.2 Impact Discussion

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

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

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

The BAAQMD CEQA *Air Quality Guidelines* set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-3 below, the proposed project would generally be consistent with the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.

Control Measures	Description	Project Consistency
<i>Transportation Measures</i>		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The proposed development would be located in proximity to Caltrain, the Altamont Commuter Express (ACE) train, Amtrak, and the Santa Clara Valley Transportation Authority (VTA) light rail. In addition, the project would include bicycle parking consistent with City standards. The proposed project would be required to implement a TDM Program, consistent with the Downtown Strategy 2040. The project is consistent with this measure.

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

Control Measures	Description	Project Consistency
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include bicycle parking consistent with City standards. In addition, the project area is well equipped with pedestrian facilities including sidewalks and crosswalks. The project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project would be located in proximity to multiple transit services; therefore, the project is consistent with this measure (refer to Section 4.17 Transportation for more information).
<i>Building Measures</i>		
Green Buildings	Identify barriers to effective local implementation of CalGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24) and the City’s Green Building Ordinance and the most recent CALGreen requirements. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City’s Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over standard construction. In addition, parking would be located within the proposed building and would not contribute to the heat island effect. Therefore, the project is consistent with this control measure.
Decrease Electricity Demands	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The proposed building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations).
<i>Natural and Working Lands Measures</i>		

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District’s technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City’s tree replacement policy. Therefore, the project is consistent with this control measure.
<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.

The project is consistent with applicable transportation, building, natural and working lands, and waste management control measures identified in the table above and is consistent with the City’s General Plan. As discussed under checklist question b) and c) below, the project construction and operational emissions would not exceed relevant BAAQMD thresholds with the implementation of mitigation. Furthermore, the proposed project would not generate GHGs in excess of the Substantial Progress efficiency metric of 2.6 metric tons of CO₂e per service population, as discussed in Section 4.8 Greenhouse Gas Emissions. For these reasons, the project would not result in a significant impact related to consistency with the 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) 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?

The Bay Area is considered a non-attainment area for ground-level ozone and PM_{2.5} under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM₁₀ under the California Clean Air Act, but not the federal act. The area has attained both State

and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM₁₀, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_x), PM₁₀, and PM_{2.5} and apply to both construction period and operational period impacts.

Construction Period Emissions

Illingworth and Rodkin used the California Emissions Estimator Model (CalEEMod) Version 2016.3.2 to estimate emissions from construction, assuming full build-out of the project. The project includes rentable office space, common interior areas, retail space, and outdoor amenity spaces on several floors. The proposed project land uses were input into CalEEMod as follows:

- 290 dwelling units and 348,435 square feet¹² entered as “Apartments High Rise” on 0.67 acres;
- 123,479 square feet entered as “General Office Building”;
- 7,603 square feet entered as “Strip Mall” to represent the proposed retail¹³; and
- 330 spaces and 78,232 square feet entered as “Enclosed Parking with Elevator”.

The inputs to CalEEMod take into account demolition of the on-site uses, excavation, and building construction, and provides emission estimates for both on-site and off-site construction activities. On-site activities consist of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The construction build-out scenario, including the equipment list and schedule, were based on information provided by the project applicant.

Construction phases include demolition/site preparation, shoring/grading/excavation, below slab utilities, foundation/structure, exterior building construction, and interior building/architectural coatings. For demolition, it was estimated that 8,800 square feet of existing building and 320 tons of pavement materials would be demolished and hauled from the site. For grading, 12,500 cubic yards of exported material would be excavated and hauled from the site. Additionally, 2,400 total cement truck round trips were included in the model’s exterior building construction vendor trips. The construction equipment worksheet provided by the project applicant included the schedule for each phase. The construction schedule assumed that the earliest possible start date would be January 2021 and the project would be built out over a period of approximately 25 months, or 545 construction workdays. The first year of operation was assumed to be 2023. CalEEMod predicted the amount of worker traffic, vendor trips, and haul trips. Haul trips were computed by CalEEMod based on the amount of demolition material and excavated dirt that would be hauled from the site.

Annual emissions were predicted using CalEEMod and the estimated 545 construction workdays. Average daily emissions were computed by dividing the total construction emissions by the number of construction days. Table 4.3-4 shows average daily construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust during construction of the project. As indicated in Table 4.3-4, predicted

¹² The 348,435-sf includes 230,073-sf for the residential use and 118,362-sf for the amenities/outdoor/BOH use.

¹³ Since the time of the air quality analysis, the square footage of retail has increased to 7,951 sf. This would result in a negligible increase in emissions and the conclusions of the current air quality study (dated March 13, 2020) remain valid. Source: Personal communication, Illingworth & Rodkin. May 2020.

construction period emissions would not exceed the BAAQMD significance thresholds. Additionally, the Downtown Strategy 2040 control measures require the project to implement best management practices to control dust and exhaust during construction, as shown in the standard permit conditions below.

Table 4.3-4: Construction Period Emissions				
<i>Scenario</i>	<i>ROG</i>	<i>NO_x</i>	<i>PM₁₀ Exhaust</i>	<i>PM_{2.5} Exhaust</i>
Total construction emissions (tons)	4.0 tons	6.6 tons	0.2 tons	0.2 tons
Average daily emissions (pounds)¹	14.5 lbs./day	24.2 lbs./day	0.8 lbs./day	0.8 lbs./day
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceed Threshold?	No	No	No	No

¹ Assumes 545 workdays.

Standard Permit Conditions: The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks transporting soil, sand, or 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 by 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 five 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.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the standard permit conditions described above, construction dust and exhaust emissions would be minimized.

Operational Period Emissions

Operational air emissions from the proposed office/residential/retail mixed use project would be generated primarily from autos driven by future residents, employees, customers, and vendors. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out. Emissions associated with vehicle travel depend on the year of analysis because emission control technology requirements are phased-in over time. Therefore, the earlier the year analyzed in the model, the higher the emission rates utilized by CalEEMod. This analysis assumed that the project would be fully built out and operating in the year 2023. Inputs used to run the model included operational trip generation rates, energy use emission rates (electricity), generator emissions, and default model assumptions for emissions associated with solid waste generation and water/wastewater use. In addition to modeling the proposed building, *Illingworth & Rodkin* developed a CalEEMod model run to compute emissions from the use of the existing building on the site as if it were operating in 2023.

The results of the operational period emissions computations are shown in Table 4.3-5.

Table 4.3-5: Operational Period Emissions				
<i>Scenario</i>	<i>ROG</i>	<i>NO_x</i>	<i>PM₁₀</i>	<i>PM_{2.5}</i>
2023 Project Operational Emissions (<i>tons/year</i>)	2.6 tons	1.6 tons	1.4 tons	0.4 tons
2023 Existing Site Operational Emissions (<i>tons/year</i>)	0.1 tons	0.2 tons	0.2 tons	<0.1 tons
Net Annual Emissions (<i>tons/year</i>)	2.5 tons	1.4 tons	1.2 tons	0.4 tons
<i>BAAQMD Thresholds (tons /year)</i>	10 tons	10 tons	15 tons	10 tons
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
2023 Project Operational Emissions (<i>lbs/day</i>) ¹	13.9 lbs.	7.5 lbs.	6.6 lbs.	1.9 lbs.
<i>BAAQMD Thresholds (pounds/day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Notes: ¹ Assumes 365-day operation.

As shown in Tables 4.3-4 and 4.3-5, construction and operational emissions from the project would not exceed the BAAQMD significance thresholds, and therefore, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under applicable air quality standards. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. The proposed project would introduce new sources of TACs during construction (i.e. on-site construction and truck hauling emissions) and operation (i.e. emergency diesel generators and project traffic).

Project construction activity would generate dust and equipment exhaust that would affect nearby sensitive receptors, while project operation would increase traffic in the area that would increase the air pollutant and TAC emissions. In addition, the project would include the installation of an emergency generator powered by a diesel engine that would also have emissions of TACs and air pollutants.

The air quality analysis addressed project impacts to existing sensitive receptors for temporary construction activities and long-term operational conditions. There are also several sources of existing TACs and localized air pollutants in the vicinity of the project. The impact of the existing sources of TAC was assessed in terms of the cumulative risk that includes the project contribution. Since the project would introduce new residents that are sensitive receptors, the impact of the existing TACs upon the new incoming sensitive receptors was also assessed (see Section 4.3.3 Non-CEQA Effects).

Community risk impacts were addressed by predicting increased cancer risk, the increase in annual PM_{2.5} concentrations and computing the Hazard Index (HI) for non-cancer health risks. This involved the modeling of TAC and PM_{2.5} emissions, dispersion modeling and cancer risk computations.

Community Risks from Project Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Although it was concluded in the previous sections (see checklist question b) that construction exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations, construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM_{2.5}. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. The air quality analysis includes a health risk assessment of the project construction activities that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and PM_{2.5}. This assessment included dispersion modeling to predict the off-site concentrations resulting from project construction, so that increased cancer risks and non-cancer health effects could be evaluated.

Construction Emissions

The CalEEMod model provided total annual PM₁₀ exhaust emissions (assumed to be DPM) for the off-road construction equipment and for exhaust emissions from on-road vehicles, with total emissions from all construction stages of 0.2053 tons (411 pounds). The on-road emissions are a result of haul truck travel during demolition and grading activities, worker travel, and vendor deliveries during construction. A trip length of one mile was used to represent vehicle travel while at or near the construction site. Fugitive PM_{2.5} dust emissions were calculated by CalEEMod as 0.0540 tons (108 pounds) for the overall construction period.

Dispersion Modeling

The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM and PM_{2.5} concentrations at sensitive receptors (residences) in the vicinity of the project construction area. The AERMOD dispersion model is a BAAQMD-recommended model for use in modeling analysis of

these types of emission activities for CEQA projects.¹⁴ Emission sources for the construction site were grouped into two categories: exhaust emissions of DPM and fugitive PM_{2.5} dust emissions. Combustion equipment exhaust emissions were modeled as a series of point sources with a nine-foot release height (construction equipment exhaust stack height) placed at 20-foot (5-meter) intervals throughout the construction site. This resulted in 112 individual point sources being used to represent mobile equipment DPM exhaust emissions in the construction area, with DPM emissions occurring throughout the project construction site. Construction fugitive PM_{2.5} dust emissions were modeled as an area source encompassing the entire construction site with a near ground level release height of two meters. Construction emissions were modeled as occurring daily between 7 a.m. to 7 p.m. per the project applicant's construction schedule.

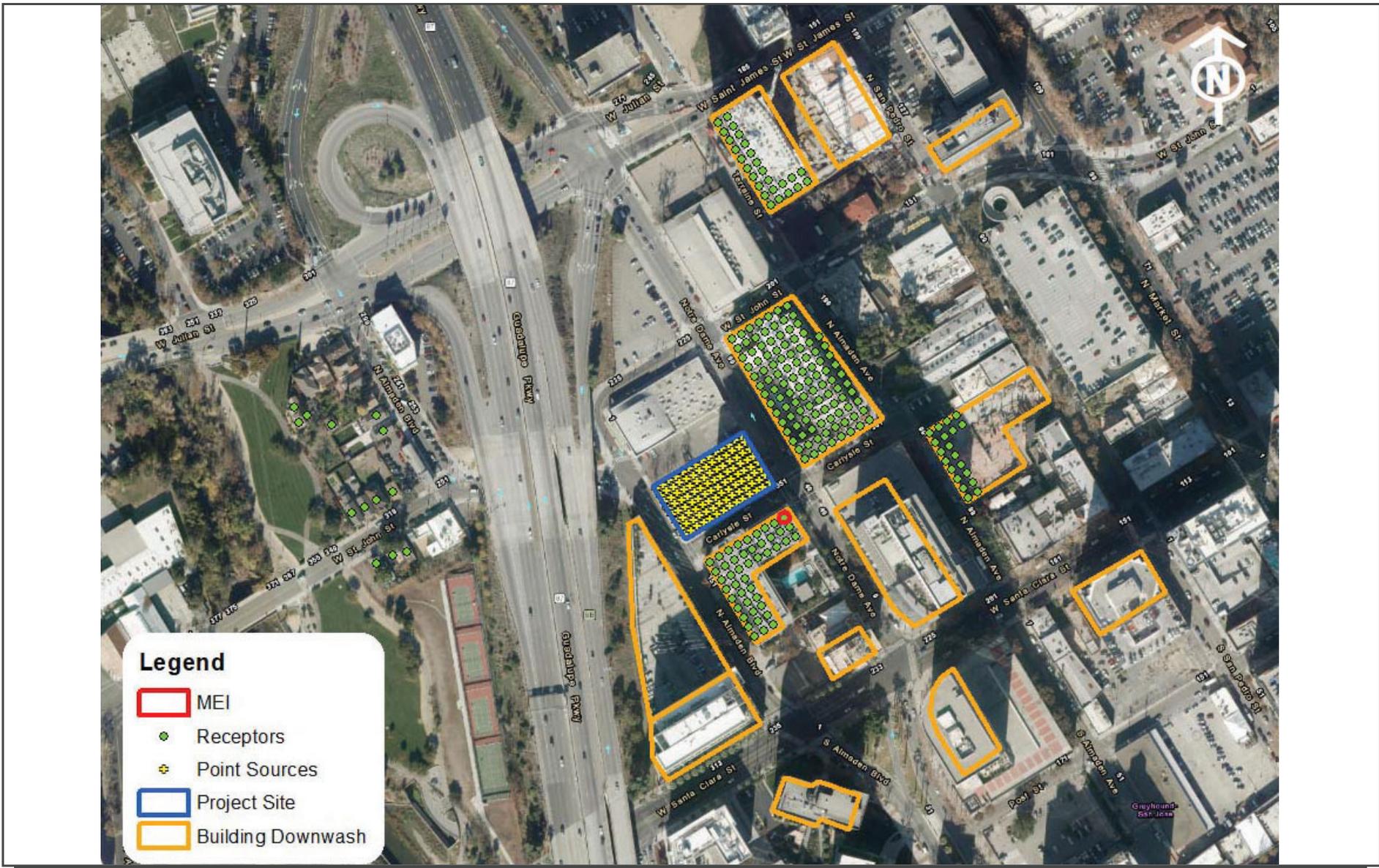
Since there are a number of tall buildings adjacent to or in close proximity to the project construction site, the effects of building downwash on the construction equipment exhaust plumes were also included in the modeling analysis. The locations of the point sources used for the modeling and the buildings that were evaluated for potential downwash effects are identified on Figure 4.3-1.

The modeling used a five-year meteorological data set (2013-2017) from the San José International Airport prepared for use with the AERMOD model by the BAAQMD. Annual DPM and PM_{2.5} concentrations from construction activities during the 2021-2023 period were calculated using the model. DPM and PM_{2.5} concentrations were calculated at nearby sensitive receptor locations. Receptor heights of 5 feet (1.5 meters), 15 feet (4.5 meters), 20 feet (6.1 meters), 25 feet (7.6 meters), 30 feet (9.1 meters), and 35 feet (10.7 meters) were used to represent the breathing heights of residents in nearby multi-story, mixed-used residential developments and single-family homes. These breathing heights account for residents occupying the second, third, and fourth floors of the multi-story, mixed-used developments and the first floors of the single-family homes.

The cancer risk calculations were based on applying the BAAQMD recommended age sensitivity factors to the TAC concentrations. Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer causing TACs. Infant and adult exposures were assumed to occur at all residences during the entire construction period.

Figure 4.3-1 shows the locations where the maximum-modeled DPM and PM_{2.5} concentrations from construction activities occurred. The maximum increased cancer risk at the location of the maximally exposed individual (MEI) was calculated using the annual modeled DPM concentration and using BAAQMD recommended methods for calculating health risks. The maximum concentrations occurred at apartments south of the project site opposite Carlisle Street at the northeast corner unit on the third floor (7.6-meter breathing height). Table 4.3-6 lists the community risks from construction at the MEI with and without the implementation of mitigation measure AIR-1.

¹⁴ Bay Area Air Quality Management District (BAAQMD), 2012, *Recommended Methods for Screening and Modeling Local Risks and Hazards, Version 3.0*. May.



PROJECT CONSTRUCTION SITE AND LOCATIONS OF OFF-SITE SENSITIVE RECEPTORS

FIGURE 4.3-1

Table 4.3-6: Construction Risk Impacts at the Off-site Residential MEI			
<i>Source</i>	<i>Cancer Risk (per million)</i>	<i>Annual PM_{2.5} (µg/m³)</i>	<i>Hazard Index</i>
Project Construction			
Unmitigated	155.7 (infant)	0.60	0.10
Mitigated	6.0 (infant)	0.09	<0.01
<i>BAAQMD Single-Source Threshold</i>	>10.0	>0.3	>1.0
<i>Exceed Threshold?</i>			
Unmitigated	Yes	Yes	<i>No</i>
Mitigated	<i>No</i>	<i>No</i>	<i>No</i>

As shown in Table 4.3-6 above, project construction would exceed the single-source threshold for cancer risk and annual PM_{2.5} at the MEI.

Community Risk from Project Operation – Traffic and Generators

Operation of the project would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (i.e., generators). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

Operational Traffic

The project would generate 1,813 net new vehicle trips per day.^{15,16} The effect of local traffic generated by the project was computed using the BAAQMD's *Roadway Screening Analysis Calculator*. The project's daily traffic would primarily occur on Almaden Boulevard, since the entrances and exits to the project site are on this street. New project trips for the roadway were entered into the screening calculator. The cancer risk was adjusted for exposure duration since the MEI would only be exposed to the increased traffic impacts once the project would be operational, and the calculator computed cancer risk based on a 30-year exposure period. Therefore, the increased cancer risk exposure duration for operational impacts was adjusted for 28 years of exposure since construction would occur for the first two years. The risks and hazards from the project's traffic were also adjusted for distance.

At the MEI, the project traffic would result in an 0.2 chances per million increased cancer risk and an annual PM_{2.5} concentration of 0.01 µg/m³. BAAQMD has found that non-cancer hazards (i.e. HI) were found to be minimal for all surface streets¹⁷ and the HI value is therefore not included. These risk levels are below the BAAQMD thresholds of greater than 10 chances per million, 0.3 µg/m³, and 1.0. The air quality analysis notes that this is a screening method and had refined modeling been conducted, lower impacts would likely have been identified.

¹⁵ Hexagon Transportation Consultants, Inc. *Carlyle Mixed-Use Development Local Transportation Analysis*. January 2020.

¹⁶ It should be noted that the transportation analysis has been revised since the time of the air quality analysis; the minor revisions resulted in new trip generation numbers of 1,817, which negligibly affects the air quality analysis.

¹⁷ BAAQMD, *Recommended Methods for Screening and Modeling Local Risks and Hazards*, May 2012, <https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/risk-modeling-approach-may-2012.pdf?la=en>

Operational Emergency Generator Modeling

The project would include a 500-kW emergency generator powered by a 650-HP diesel engine located on the basement level of the project in the northwest corner. Operation of a diesel generator would be a source of TAC emissions. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel. The emissions from the operation of the generator were calculated using the CalEEMod model.

This 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. The risk assessment would be prepared by BAAQMD. Depending on results, BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally would not be considered to have a significant air quality community risk impact.

To obtain an estimate of potential cancer risks and PM_{2.5} impacts from operation of the emergency generator, the U.S. EPA AERMOD dispersion model was used to calculate the maximum annual DPM concentration at off-site sensitive receptor locations (nearby residences). The same receptors and breathing heights used in the construction dispersion modeling were used for the generator model. Additionally, the same building downwash and BAAQMD San José Airport meteorological data was used. Stack parameters (stack height, exhaust flow rate, and exhaust gas temperature) for modeling the generator was based on BAAQMD default parameters for emergency generators.¹⁸ Annual average DPM and PM_{2.5} concentrations were modeled assuming that generator testing could occur at any time of the day.

To calculate the increased cancer risk from the generators at the MEI, the cancer risks were also adjusted for exposure duration to account for the MEI being exposed to construction for the first two years of the 30-year period. The exposure duration was adjusted for 28 years of exposure. Based on this duration, the increased cancer risk from the generator would be 1.4 per million. The maximum annual PM_{2.5} concentration would be less than 0.01 µg/m³ and the HI value would be less than 0.01.

Summary of Project-Related Community Risks at MEI

The cumulative risk impacts from a project is the combination of construction and operational sources. These sources include on-site construction activity, project generators, and increased traffic from the project. The project impact is computed by adding the construction cancer risk for an infant to the increased cancer risk for the project operational conditions for the roadway and generator at the MEI over a 30-year period. The project MEI is identified as the sensitive receptor that is most impacted by the project's construction and operation.

¹⁸ The San Francisco Community Risk Reduction Plan: Technical Support Document, BAAQMD, San Francisco Dept. of Public Health, and San Francisco Planning Dept., December 2012

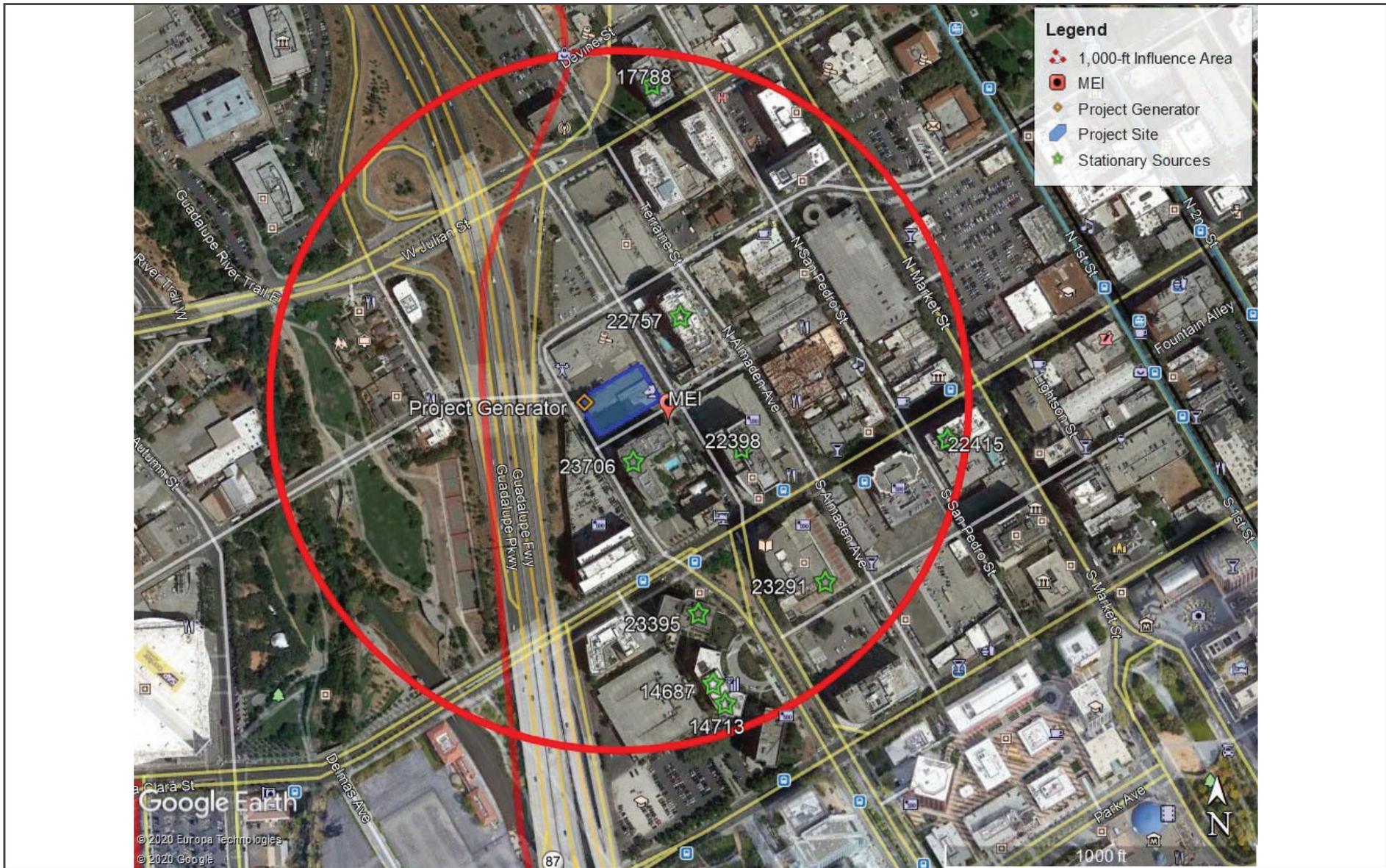
For this project, the sensitive receptor identified in Figure 4.3-1 as the construction MEI is also the project MEI. At this location, the MEI would be exposed to two years of construction cancer risks and 28 years of operational (includes traffic and emergency backup generators) cancer risks. The cancer risks from construction and operation of the project were summed together. Unlike the increased maximum cancer risk, the annual PM_{2.5} concentration and HI risks are not additive but based on an annual maximum risk for the entirety of the project.

The unmitigated maximum cancer risks and PM_{2.5} concentration would exceed the BAAQMD single-source thresholds of greater than 10.0 per million for cancer risk and 0.03 µg/m³ for PM_{2.5} concentration. However, with mitigation measure MM AIR-1.1 the mitigated increased project cancer risk and PM_{2.5} concentration would not exceed the single-source thresholds. The unmitigated non-cancer hazards from construction and operation activities would be below the single-source significance threshold as seen in Table 4.3-7.

Table 4.3-7: Construction and Operation Risk Impacts at the Off-site Residential MEI				
<i>Source</i>		<i>Cancer Risk (per million)</i>	<i>Annual PM_{2.5} (µg/m³)</i>	<i>Hazard Index</i>
Project Construction (Years 0-2)	Unmitigated	155.7 (infant)	0.60	0.10
	Mitigated	6.0 (infant)	0.09	<0.01
Project Traffic (Year 3-30)		0.2	0.01	--
Project Generator (Years 3-30)		1.4	<0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)		157.3	<0.60	<0.10
Mitigated Total/Maximum Project (Years 0-30)		7.6	<0.09	<0.01
<i>BAAQMD Single-Source Threshold</i>		>10.0	>0.3	>1.0
<i>Exceed Threshold?</i>				
Unmitigated		Yes	Yes	<i>No</i>
Mitigated		<i>No</i>	<i>No</i>	<i>No</i>

Cumulative Community Risks of all TAC Sources at Project MEI

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site (i.e. influence area). These sources include freeways or highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that traffic on SR 87, West Santa Clara Street, and West Julian Street would exceed 10,000 vehicles per day. Other nearby streets are assumed to have less than 10,000 vehicles per day. A review of BAAQMD's stationary source Google Earth map tool identified nine stationary sources (identified as diesel generators) with the potential to affect the MEI. In addition, there are development projects whose construction would contribute to the cumulative risk. The risk impacts from these developments were included within the analysis. Figure 4.3-2 shows the location of the sources affecting the MEI. Community risk impacts from these sources upon the MEI are reported in Table 4.3-8.



PROJECT SITE AND NEARBY TAC AND PM_{2.5} SOURCES

FIGURE 4.3-2

Table 4.3-8: Cumulative Community Risk Impacts from Combined TAC Sources at MEI			
Source	Maximum Cancer Risk (per million)	PM_{2.5} Concentration (µg/m³)	Hazard Index
<i>Project Impacts</i>			
Unmitigated Total/Maximum Project (Years 0-30)	157.3	<0.60	<0.10
Mitigated Total/Maximum Project (Years 0-30)	7.6	<0.09	<0.01
<i>BAAQMD Single-Source Threshold</i>	>10.0	>0.3	>1.0
<i>Exceed Threshold?</i>			
Unmitigated	Yes	Yes	<i>No</i>
Mitigated	<i>No</i>	<i>No</i>	<i>No</i>
<i>Cumulative Sources</i>			
S.R. 87 (MEI at 400 feet west)	5.9	0.33	<0.01
W. Santa Clara Street, ADT 23,170 (MEI at 360 feet north)	2.4	0.07	--
W. Julian Street, ADT 25,000 (MEI at 820 feet south)	1.3	0.05	--
Plant #14687 (Generator)	0.1	0.00	0.00
Plant #14713 (Generator)	0.1	0.00	0.00
Plant #17788 (Generator)	0.2	0.00	0.00
Plant #22398 (Generator)	2.9	<0.01	<0.01
Plant #22415 (Generator)	0.2	0.00	0.00
Plant #22757 (Generator)	0.1	--	--
Plant #23291 (Generator)	0.4	0.00	0.00
Plant #23395 (Generator)	0.5	0.00	0.00
Plant #23706 (Generator)	2.4	0.00	0.01
Almaden Corner Hotel Mitigated Construction Emissions	<6.7	<0.08	<0.01
Post and San Pedro Tower Mitigated Construction Emissions	<9.5	<0.14	<0.01
<i>Combined Sources</i>			
<i>Unmitigated</i>	<190.0 (infant)	<1.28	<0.15
<i>Mitigated</i>	<40.3 (infant)	<0.77	<0.06
<i>BAAQMD Cumulative Source Threshold</i>	>100	>0.8	>10.0
<i>Exceed Threshold?</i>			
Unmitigated	Yes	Yes	<i>No</i>
Mitigated	<i>No</i>	<i>No</i>	<i>No</i>

Table 4.3-8 reports both the project and cumulative community risk impacts at the sensitive receptor most affected by construction and operation (i.e. the MEI). Without mitigation, the project's community risk from project construction and operational activities would exceed the single-source maximum increased cancer risk of 10.0 per million and the PM_{2.5} concentration threshold of 0.3 µg/m³. The incorporation of mitigation measure MM AIR-1.1 and MM AIR-1.2 would reduce these levels to below the significance thresholds. The mitigated cumulative community risks would not exceed their respective BAAQMD cumulative-source thresholds.

Impact AIR-1: Project construction and operational activities would result in exceedances of the single-source maximum increased cancer risk and PM_{2.5} concentration thresholds. **(Significant Impact)**

Mitigation Measures: The following mitigation measures shall be implemented by the project to reduce emissions during the construction phase of the project.

MM AIR-1.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall develop a construction operations plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 94-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction would include 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. EPA particulate matter emissions standards for Tier 4 engines. Where Tier 4 equipment is not available, exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.
- Install electric line power during early construction phases to avoid use of diesel generators and compressors.
- Stationary construction cranes (building cranes) shall be powered by electricity.
- A majority of forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered.

MM AIR-1.2: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning or Director's designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.

CalEEMod was used to compute emissions upon implementation of the above mitigation measures, assuming that all equipment met U.S. EPA Tier 4 final standards and cranes, aerial lifts, and forklifts were electrified. The computed maximum increased residential cancer risk from construction, assuming infant exposure, would be 7.6 in one million or less and the maximum annual PM_{2.5} concentration would be reduced to 0.09 µg/m³. These values fall below the 10.0 cases per million threshold for cancer risk and the 0.3 µg/m³ threshold for maximum PM_{2.5} concentrations, consistent with BAAQMD guidelines. Therefore, with the implementation of mitigation measures MM AIR-1.1 and MM AIR-1.2, risk levels would not exceed the BAAQMD significance thresholds. **[Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)]**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed project would not include any land uses that are likely to generate a substantial odor that would cause complaints from surrounding uses. The proposed project would use cleaning supplies, but their use would be contained indoors. Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely be noticed beyond the project site's boundaries. The proposed project would, therefore, result in less than significant odor impacts. **[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 Jose has policies that address existing air quality conditions affecting a proposed project.

Operational Community Health Risk Impacts – New Project Residences

In addition to evaluating health impact from project construction, a health risk assessment was completed to assess the impact that existing TAC sources would have on the proposed sensitive receptors that the project would introduce. The same TAC sources identified above were used in this health risk assessment.¹⁹

Combined Community Health Risk at Project Site

Community risk impacts from combined sources upon the project site sensitive receptors are shown in Table 4.3-9. As shown, the annual cancer risks, annual PM_{2.5} concentrations, and Hazard Indexes are all below their respective single-source and cumulative significance thresholds.

Source	Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
S.R. 87 (MEI at 200 feet west)	0.7	0.03	<0.01
W. Santa Clara Street, ADT 23,170 (MEI at 440 feet north)	2.2	0.06	--
W. Julian Street, ADT 25,000 (MEI at 630 feet south)	1.6	0.06	--
Plant #14687 (Generator)	0.1	0.00	0.00
Plant #14713 (Generator)	0.1	0.00	0.00

¹⁹ Illingworth and Rodkin, Inc. notes that to the extent this analysis considers *existing* air quality issues in relation to the impact on *future residents* of the Project, it does so for informational purposes only pursuant to the judicial decisions in *CBA v. BAAQMD* (2015) 62 Cal.4th 369, 386 and *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473, which confirm that the impacts of the environment on a project are excluded from CEQA unless the project itself “exacerbates” such impacts.

Table 4.3-9: Community Risk Impact to New Project Residences			
Plant #17788 (Generator)	0.3	0.00	0.00
Plant #22398 (Generator)	2.0	0.00	0.00
Plant #22415 (Generator)	0.2	0.00	0.00
Plant #22757 (Generator)	0.1	--	--
Plant #23291 (Generator)	0.4	0.00	0.00
Plant #23395 (Generator)	0.5	0.00	0.00
Plant #23706 (Generator)	2.4	<0.01	0.01
Almaden Corner Hotel Mitigated Construction Emissions	<6.7	<0.08	<0.01
Post and San Pedro Tower Mitigated Construction Emissions	<9.5	<0.14	<0.01
<i>BAAQMD Single-Source Threshold</i>	>10.0	>0.3	>0.1
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Cumulative Total	<26.8	<0.38	<0.04
<i>BAAQMD Cumulative Source Threshold</i>	>100	>0.8	>10.0
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>

4.4 BIOLOGICAL RESOURCES

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.²⁰ Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

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

²⁰ United States Department of the Interior. “Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take.” Accessed November 19, 2019. <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>.

Fish and Game Code Section 1602

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 and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to biological resources and applicable to development projects in San José:

Envision San José 2040 General Plan Relevant Biological Resources Policies

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

- MS-21.8 For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:
1. Avoid conflicts with nearby power lines.
 2. Avoid potential conflicts between tree roots and developed areas.
 3. Avoid use of invasive, non-native trees.
 4. Remove existing invasive, non-native trees.
 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
- CD-1.23 Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
- CD-1.24 Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

San José Tree Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees exceeding 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

4.4.1.2 Existing Conditions

The 0.67-acre project site is located in an urban area surrounded by residential and commercial development. The site is developed with a commercial building, paved surface parking lot, and fenced open space area. There are approximately nine trees on the project site. Table 4.4-1 below identifies the species and sizes of trees located on the project site. In addition to the trees described below, there are a number of invasive trees and shrubs which have populated the fenced open space area of the site (west of the commercial building).

Species of Tree	Size of Tree (trunk circumference)	Type of Tree	Ordinance Tree?
<i>Pistacia chinensis</i>	75.36"	Non-native	Yes
<i>Pistacia chinensis</i>	50.24"	Non-native	Yes
<i>Pistacia chinensis</i>	25.12"	Non-native	No
<i>Pistacia chinensis</i>	18.84"	Non-native	No
<i>Pistacia chinensis</i>	25.12"	Non-native	No
<i>Pistacia chinensis</i>	25.12"	Non-native	No

Table 4.4-1: Trees on the Project Site			
<i>Pistacia chinensis</i>	56.52"	Non-native	Yes
<i>Pistacia chinensis</i>	75.36"	Non-native	Yes
<i>Pistacia chinensis</i>	113"	Non-native	Yes

Developed urban areas, such as the project site, are typically low in species diversity. The existing trees on the project site may, however, provide nesting habitat for raptors and other avian species like rock pigeons, mourning doves, house sparrows, finches, northern mockingbird, and European starlings. Due to the extent of human disturbance and development on and within the vicinity of the project site, special-status plant and animal species are not expected to occur.

There are no riparian corridors in the vicinity of the project site, nor are there any wetlands or sensitive habitats on or adjacent to the site. The closest riparian corridor to the project site is the Guadalupe River, located approximately 800 feet west of the site. Coyote Creek, the other prominent waterway in the downtown area, is located approximately 1.3 miles east of the site.

Furthermore, the project site is located within the Habitat Plan study area and is designated as Urban-Suburban land. Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres. Vegetation found in Urban-Suburban land is usually in the form of landscaping, planted street trees, and parklands.

4.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

As discussed below, the proposed project would not result in a new or greater impact on biological resources than was previously disclosed in the Downtown Strategy 2040 FEIR.

a) 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 CDFW or USFWS?

Special-Status Species

The project site is in a highly urbanized area and is developed with a commercial building, surface parking lot, and open space area. The open space area is paved and contains limited vegetation, primarily consisting of invasive trees and shrubs. Due to the lack of suitable habitat and history of development on the site and in the surrounding areas, special-status species are unlikely to occur on the site. Therefore, development of the proposed project would not significantly impact special-status species. **[Same Impact as Approved Project (Less than Significant Impact)]**

Nesting Raptors and Migratory Birds

There are currently nine trees on and adjacent to the project site, five of which are ordinance-sized trees. All nine trees are proposed for removal. The trees could provide nesting and/or foraging habitat for migratory birds. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

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

Mitigation Measures: In compliance with the MBTA and the California Fish and Game Code, the Downtown Strategy 2040 FEIR, the General Plan FEIR, SEIR, and Addenda thereto, the project shall implement the following measures to reduce or avoid construction-related impacts to nesting raptors, other migrating birds and their nests:

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

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

Prior to any tree removal, or approval of any grading or demolition permits, the applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement (PBCE) or Director's designee.

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

b) 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 CDFW or USFWS?

The only sensitive natural communities within the downtown area are the riparian and aquatic habitats within the Los Gatos Creek and the Guadalupe River corridors.²¹ As mentioned in Section 4.4.1.2 Existing Conditions, the closest riparian corridor to the project site is the Guadalupe River, located approximately 800 feet to the west. Development of the project would be confined to the site and would not involve offsite improvements to the nearby riparian corridor, such as channel realignments or culverting, which could result in unanticipated environmental impacts. Therefore, the proposed project would not result in substantial adverse effects on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or USFWS. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

There are no federally protected wetlands within, or adjacent, to the project site. For this reason, the proposed project would not adversely affect protected wetlands through demolition, excavation, grading, or construction activities. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) 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?

Migratory movements of animal species are most often associated with riparian corridors. The Guadalupe River and Coyote Creek provide important migratory corridors for bird and fish species, including steelhead and Chinook salmon. The Guadalupe River is located approximately 800 feet to the west of the site and Coyote Creek is located approximately 1.3 miles east of the site. The proposed project would not substantially interfere with wildlife movement throughout either of these riparian corridors.

The downtown area is located along the Pacific Flyway for migratory birds. The Downtown Strategy 2040 FEIR found that build-out of the downtown area could result in additional bird collisions with taller buildings; however, possible collisions would not result in substantial impacts on regional bird populations because species known to occur in the downtown area are regionally abundant and adapted to urban development. Therefore, possible bird collisions with the proposed building would not substantially interfere with migratory bird movements or impact regional bird populations.

There are no wildlife nursery sites present on the project site.²² Furthermore, the project would implement pre-construction nesting raptor and migratory bird surveys (as described in MM BIO-1.1) to ensure the project does not interfere with the movement of native resident or migratory bird species by tree removal or construction disturbances. Consistent with the conclusions of the Downtown Strategy 2040 FEIR, the proposed project would not result in significant impacts to

²¹ City of San José *San José Downtown Strategy 2040 EIR*. 2018.

²² A wildlife nursery site is defined as a site where wildlife concentrates for hatching and/or raising young, such as rookeries, spawning areas and bat colonies.

migratory fish or wildlife species, wildlife corridors, or wildlife nursery sites. [Same Impact as Approved Project (Less than Significant Impact)]

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

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

As mentioned previously, there are a total of nine trees on the site, five of which are ordinance sized trees. All nine trees would be removed by the project. None of the trees on the site are native. All trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San Jose Tree Protection Ordinance
- San Jose Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In alignment with the laws, policies, and guidelines described above, and consistent with the Downtown Strategy 2040 FEIR, the project would be required to implement the following standard permit conditions.

Standard Permit Conditions:

- **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

¹As measured 4.5 feet above ground level

²X:X = tree replacement to tree loss ratio

³Ordinance-sized tree

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees

According to the type and size of trees proposed for removal, five trees would be replaced at a 4:1 ratio, three trees would be replaced at a 2:1 ratio and one tree would be replaced at a 1:1 ratio. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted would be 27 trees at the minimum 15-gallon size. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

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

By conforming to the above conditions, the proposed project would meet all applicable tree removal and tree protection guidelines set forth by the City of San José. Therefore, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) 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?

The proposed project is a covered activity under the SCVHP (Urban Development Equal to or Greater Than 2 Acres Covered).²³ There is no land cover fee for designated Urban Areas under the SCVHP.

The SCVHP considers covered activities to result in a certain amount of indirect impacts from urban development mostly in the form of increased impervious surface and from the effects of nitrogen

²³ Santa Clara Valley Habitat Agency. "Geobrowser". Accessed November 26, 2019. <http://www.hcpmaps.com/habitat/>.

deposition. Urban development that increases the intensity of land use results in increased air pollutant emissions from passenger and commercial vehicles and other industrial and nonindustrial sources. Emissions from these sources are known to increase airborne nitrogen, of which a certain amount is converted into forms that can fall to earth as depositional nitrogen. It has been shown that increased nitrogen in serpentine soils can favor the growth of nonnative annual grasses over native serpentine species and these nonnative species, if left unmanaged, can overtake the native serpentine species, which are host plants for larval Bay Checkerspot butterfly. As such, covered projects within the SCVHP area are subject to paying a “Nitrogen Deposition Impact Fee” which is calculated based on the number of daily vehicle trips attributed to the activity and collected prior to the commencement of the use.

Standard Permit Condition: The following standard permit condition would be implemented by the proposed project, consistent with the SCVHP.

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning or Director’s designee of the City of San José Department of PBCE for review and shall complete subsequent forms, reports, and/or studies as needed prior to the issuance of grading permits. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/>.

With implementation of the identified standard permit condition, the project would not conflict with the provisions of the SCVHP. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.5 CULTURAL RESOURCES

The following discussion and analyses are based, in part, on an archaeological literature review prepared for the project site by Holman & Associates in December 2019, and a historic resource evaluation prepared for the project by TreanorHL in September 2019. A copy of the archaeological report is on file with the City of San José. The historic resource evaluation is included in this IS/Addendum as Appendix B.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) 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 [CFR] 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.

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.²⁴

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, therefore, in evaluating adverse changes to them. Integrity is defined as “the authenticity of a historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The processes of determining integrity are similar for both the CRHR and NRHP and use 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.

²⁴ California Office of Historic Preservation. “CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6.” March 14, 2006.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to cultural resources and applicable to development projects in San José:

Envision San José 2040 General Plan Relevant Cultural Resources Policies

Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
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.

Envision San José 2040 General Plan Relevant Cultural Resources Policies

Policy	Description
LU-13.8	Ensure 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.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
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.
LU-14.2	Give high priority to the preservation of historic structures that contribute to an informal cluster or a Conservation Area; have special value in the community; are a good first for preservation within a new project; have a compelling design and/or an important designer; etc.
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.

City of San José Historic Preservation Ordinance

The City’s Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) promotes the preservation of old historic or architecturally worthy structures and neighborhoods which impart a distinct aspect to the City and serve as visible reminders of the historical and cultural heritage of the City, the state, and the nation. The City contains over 200 designated City Landmarks, structures which represent a physical connection with significant persons, activities, or events from the City’s past. Any historic property may be nominated for designation as a City Landmark by either the City Council or the Historic Landmarks Commission; property owners may also apply for nomination and consideration by the Historic Landmarks Commission. Factors to be considered when making a finding regarding Landmark designation of a historic structure include the following:

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.

4.5.1.2 *Existing Conditions*

The project site is located on the southern half of the block bounded by West St. John Street to the north and west, Carlyle Street to the south, and Notre Dame Avenue to the east. The site is comprised of four parcels. At the southeast corner of the site are two attached one-story buildings: 51 Notre Dame Avenue located to the south and 65 Notre Dame Avenue to the north. The site is enclosed with chain link fencing and the southwest corner is vacant. The northern half of the site is used as a surface parking lot.

Historical Resources

Site History

According to the 1915 Sanborn map, the Convent of Notre Dame occupied the lower two-thirds of the large city block bounded by San Augustine (today's West St. John Street) to the north, North San Pedro to the east, West Santa Clara to the south, and Santa Teresa (today's West St. John Street) to the west. The Sisters of Notre Dame de Namur established the College of Notre Dame (including college, upper and lower residence schools, and a high school) and their convent at this location in 1851 and served the community until 1923. Although the college was relocated to Belmont, a town 30 miles south of San Jose, and the orphanage and elementary school moved to Saratoga in 1923, the high school remained on the site until 1928. The property was sold, and the buildings demolished by 1932. The building at 51 Notre Dame Avenue was constructed in 1937 as a grocery store. The attached structure at 65 Notre Dame Avenue was added in 1949 as a grocery warehouse. The building at 51 Notre Dame Avenue has undergone multiple interior remodels, particularly when the occupant and use of the space changed.

Historic Context

The City of San José developed around the pueblo of San José which was, in the 1790s, between First Street and the *acequia*, a waterway connecting to the Guadalupe River. Many of the structures associated with the pueblo would be located around what is today Market, San Pedro, and Santa Clara streets, with pueblo lands extending to St. James Street to the north and to William Street to the south. By the 1850s, the commercial district of the community centered at the intersection of Market and Santa Clara streets. The business district eventually expanded to the east to First Street and to the south several blocks. As new businesses came into the city, new multi-story buildings replaced the one- and two-story structures that operated in the commercial center of the City. The first civic buildings of San José were established in the immediate vicinity of the old pueblo area.

San José can attribute its initial development and growth to the success of local agricultural economy prior to 1918. San José began to decentralize following World War I as suburban growth was made possible by the rise of the automobile. The City witnessed an expansion of commercial development in the 1920s related to the surrounding agricultural economy. In the late 1930s, the City experienced a building boom as it planned to become a regional hotel center, as well as benefitting from New Deal programs which brought new buildings to the downtown area.

After World War II, architects in San José designed Modernist buildings and the economy moved away from the fruit and agricultural processing industries toward defense and technology businesses. The City continued to expand and annex new lands. During the 1960s, many Modernist buildings

began to appear around the downtown area. As a result of urban renewal, many older buildings were demolished in order to make way for more parking appealing to the automobile-focused population. Today, the downtown urban core continues to evolve and features both newer and older buildings.

The building at 51 Notre Dame Avenue was used as a sub-office by IBM from 1966 to 1968. The nearby building to the north at 99 Notre Dame Avenue was occupied by IBM's Development Division from 1952 to 1968 as the company's first West Coast research and development facility. IBM is acknowledged as one of the firms that played a major role in San José's developmental history. During the company's peak of operation, from late 1950s well into the 1980s, IBM was the largest employer in San José with a peak of approximately 11,000 employees. The nearby building at 99 Notre Dame Avenue is listed in the City's Historic Resource Inventory (HRI) as a City Landmark and is eligible for inclusion in the California Register.²⁵

Architectural Context

As discussed, the project site contains two attached buildings, located at 51 Notre Dame Avenue and 65 Notre Dame Avenue. Both buildings reflect a Commercial Modern architectural style. The Commercial Modern style in San José is primarily found along major roads leading into the downtown area – West San Carlos Street, Alum Rock Avenue and North First Street. The style can be applied to commercial structures which exhibit Modern design principles. Commercial Modern buildings often feature concrete and steel as primary building materials, as well as large expanses of glass. Other characteristics include horizontal massing, flat roofs, expressed structural systems, and large commercial signage.

No design professionals were associated with 51 Notre Dame Avenue. The building permit for 65 Notre Dame Avenue notes Warren F. Crinklaw as the contractor. According to *San José Modernism Historic Context Statement*, Crinklaw (1916-1971) was an award-winning Santa Clara Valley general contractor. He worked on Higgins & Root's Tempress Industries electronic plant (1970) at 980 University Avenue in Los Gatos, which *Factory Magazine* honored as one of the ten most beautiful factories in the United States in 1970. He also built the chapel of the Lima-Salmon-Erickson funeral home, the St. Francis Episcopal Church in Willow Glen, and numerous schools.

Historical Significance

California Register of Historical Resources

The existing buildings at the project site were evaluated against the California Register criteria for historical significance. The California Register criteria is more stringent than the National Register; therefore, if a project is found to be an eligible historic resource under the California Register, it is automatically found to be eligible for listing in the National Register.

The building at 51 Notre Dame Avenue was constructed in 1937 when the early 20th century expansion of downtown San José was slowing. The building at 65 Notre Dame Avenue was added to the existing building in 1949. Neither building is associated with the history and growth of downtown San José in an individually significant way. The building at 51 Notre Dame Avenue was

²⁵ City of San José. "Historic Resource Inventory". Accessed December 3, 2019. <https://www.sanjoseca.gov/home/showdocument?id=24021>.

briefly used as a sub-office by IBM from 1966 to 1968; however, it is not associated with the company's achievements or industrialization of San José in an individually significant way. Therefore, the subject properties at 51 and 65 Notre Dame Avenue do not appear eligible for listing in the California Register under Criterion 1 – Association with significant events.

No persons of known historical significance appear to have been associated with the subject properties. None of the owners or occupants of 51 and 65 Notre Dame Avenue have been identified as important to the history of San José or California. Therefore, the buildings do not appear eligible for listing in the California Register under Criterion 2 – Persons.

The subject properties are of common construction and materials with no notable or special attributes, and the structures do not represent work of a master or possess high artistic value. Further, the buildings are not exemplary representatives of their Commercial Modern architectural style. No architect, designer or builder has been identified for 51 Notre Dame Avenue. According to the building permit, 65 Notre Dame Avenue was constructed in 1949 by Warren F. Crinklaw. Although Crinklaw was a prolific contractor in the San José area, this building is a rudimentary example of reinforced concrete construction and does not represent his work. Therefore, the subject properties do not appear eligible for listing under Criterion 3 – Architecture and Construction.

Archival research provided no indication that the subject properties have the potential to yield information important to the prehistory or history of the local area, California, or the nation. The subject property does not appear eligible for listing in the California Register under Criterion 4 – Information Potential.

For the reasons described above, the subject property is not eligible for listing in the California Register.

City of San José Historic Preservation Ordinance

The existing buildings at the site were evaluated against the City's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) to determine if they qualify as a City Landmark. The existing buildings do not meet any of the eight criteria for designation as a local City landmark structure. Although the buildings are associated with the early 20th century development of downtown San José, they do not appear to be an important part of San José or the region's history. The subject property is not associated with a significant historic event, identified with persons who contributed significantly to the local culture and history, does not exemplify the cultural, economic, social or historic heritage of the City, nor significantly portrays the environment of a group of people in an era of history characterized by a distinctive architectural style. For these reasons, neither of the buildings on the project site appear to be eligible as City of San José landmarks.

Archaeological Resources

An archaeological literature search was completed for the project site by Holman & Associates. The literature search involved a review of records of identified archaeological resources within 0.25 mile of the site and all studies adjacent to (within 50 meters) of the project site. The records search found that no cultural resources are recorded within the project site. The closest archaeological site was explored for subsurface archaeological deposits in 2016. The nearby site consists of 25

archaeological features, including artifacts associated with the Alvirez Adobe (1830s to 1880s) and discard from residents and commercial uses which formerly occupied the area. Another nearby archaeological site documents the foundation of the Amesquita Adobe produced during construction of the original pueblo of San José. The building’s foundation portions remain today, with existing development constructed to avoid this resource. In addition, there are findings of Native American sites in proximity to the project site, one of which is listed in the California Register and eligible for inclusion in the National Register.

The project site is not within any of the City’s historic districts, nor are any of the resources discussed above located within the site boundaries. In this portion of downtown San José, Native American sites have been identified within 0.5 mile of the Guadalupe River and its tributaries. Isolated burials have also been identified near both sides of the Guadalupe River. Many of these Native American resources have been buried under alluvium or recent layers. The project site is located approximately 800 feet from the channelized Guadalupe River and has a high potential for buried Native American resources.

Historic-era maps of the project site and surrounding areas were examined to identify the potential for archaeological resources that might elaborate on the history of the site and general area. The project site and surrounding areas were found to be historically developed (between 1876 and 1915) with several single-family residences with many outbuildings. Based on this information, the project site is considered to have high potential for historic-era archaeological resources associated with the late 1800s.

4.5.2 Impact Discussion

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

As discussed below, the proposed project would not result in a new or greater impact on cultural resources than was previously disclosed in the Downtown Strategy 2040 FEIR.

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

Historic resources include properties eligible for listing on the National Register, the California Register, or a local register of historical resources (as defined at Public Resources Code §5020.1(k)). According to Public Resources Code §15064.5(b), a project would have a significant effect on an historic resource if it would “cause a substantial adverse change in the significance” of that resource. Specifically, “substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired.” The existing buildings on the project site are not listed on the San José Historic Resource Inventory on any state or federal inventories. Additionally, as described above in Section 4.5.1.2 Existing Conditions, the buildings are not eligible for listing in the California Register or as Candidate City Landmark Structures per Chapter 13.48 of the Municipal Code.

The proposed project would demolish the existing buildings at 51 and 65 Notre Dame Avenue; however, the buildings are not eligible for listing as historic resources in local, state, or federal inventories. Therefore, the proposed project would not result in a significant impact to historical resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

The archaeological literature review found that the project site has a high potential for discovery of both prehistoric and historic archaeological resources. The proposed project has completed a site-specific archaeological resources report, which concluded that the site has a high sensitivity for both Native American and historic-era archaeological resources. Even with implementation of the standard permit conditions described above, the project could result in disturbance of archaeological resources during construction activities. This would constitute a significant impact requiring mitigation.

Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of archaeological resources.

Mitigation Measures: In accordance with the Downtown Strategy 2040 FEIR and the recommendations of the site-specific archaeological resources report, the following mitigation measures shall be implemented by the project to reduce impacts to subsurface archaeological resources.

MM CUL-1.1: **Preliminary Investigation.** Prior the issuance of any grading permits, a qualified archaeologist who is trained in both local prehistoric and historical archaeology shall complete a subsurface exploration of the project site commensurate with proposed disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist after the demolition of the buildings and removal of

the asphalt on the parking lot. To explore for potential Native American 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 determined to be reliably culturally sterile. Archaeological monitoring may be necessary to examine deeper impacts. If any ground-disturbing activities are required for other environmental concerns or for potholing to identify previous utilities, utility removal, or any grading prior to subsurface archaeological explorations, an archaeological monitor shall be required. Based on the findings of the subsurface testing, an archaeological resource treatment plan as described in MM CUL-1.2 shall be prepared by a qualified archaeologist, if necessary.

MM CUL-1.2: **Treatment Plan.** If MM CUL-1-1 is applicable, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL 1-3: **Evaluation and Documentation.** The project applicant shall notify the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction

activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Informative center (NWIC), and/or equivalent.

Furthermore, there is still a potential for onsite discovery even with the implementation of MM CUL 1-1 to 1-3. However, the Downtown Strategy 2040 FEIR determined that future development under the Downtown Strategy 2040 would not result in significant impacts to archaeological resources upon implementation of measures in accordance with General Plan policies. Therefore, consistent with the 2040 General Plan Policies ER-10.2 and ER-10.3, and the Downtown Strategy 2040 FEIR, the following conditions are included to minimize impacts to subsurface cultural resources.

Standard Permit Conditions:

Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

With implementation of the standard permit conditions and mitigation measures described above, the proposed project would result in a less than significant impact to subsurface archaeological resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

It is possible that human remains are discovered during on-site demolition, grading, or excavation activities. Consistent with the Downtown Strategy 2040 FEIR, the project would be required to follow procedures according to the California Health and Safety Code and Public Resources Code upon the accidental discovery of human remains during project construction activities. The mandatory measures are described in the standard permit conditions below.

Standard Permit Conditions:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The developer shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.
- If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - The MLD identified fails to make a recommendation; or
 - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

By adhering to these procedures, timely identification of remains and notification of relevant agencies would follow any accidental discoveries, and significant impacts to human remains would be avoided. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2019 Title 24 updates went into effect on January 1, 2020.²⁶ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.²⁷

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 into effect on January 1, 2020, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

²⁶ California Building Standards Commission. "Welcome to the California Building Standards Commission." Accessed April 5, 2020. <https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo>.

²⁷ California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed April 5, 2020. <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency>

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.²⁸

Local

City of San José Green Building Standards

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)²⁹, GreenPoint³⁰, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 4.6-1 below.

Table 4.6-1: Private Sector Green Building Policy Applicable Projects	
Applicable Project*	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Notes: *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard.
Source: City of San José. “Private Sector Green Building.” Accessed: November 26, 2019. Available at: <http://www.sanjoseca.gov/index.aspx?NID=3284>.

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated into the City’s GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General

²⁸ California Air Resources Board. “The Advanced Clean Cars Program.” Accessed November 26, 2019. <https://www.arb.ca.gov/msprog/acc/acc.htm>.

²⁹ Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

³⁰ Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The City’s GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary and could be incorporated as mitigation measures for proposed projects, at the City’s discretion. GHG reduction measures serve the dual purpose of reducing GHG emissions and reducing wasteful and inefficient use of energy in new developments.

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

Envision San José 2040 General Plan Relevant Energy Resources Policies

Policy	Description
MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.3	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.

Envision San José 2040 General Plan Relevant Energy Resources Policies

Policy	Description
MS-14.4	Implement the City’s Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

City of San José 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).

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted the Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

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 GHGs, 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 GHG 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
- Density 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

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.³¹ Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.³² 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 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.³³

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

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California’s natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.³⁴ In 2018, residential and commercial customers in California used 34 percent of the state’s natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state’s total consumption of natural gas.³⁵

³¹ United States Energy Information Administration. “State Profile and Energy Estimates, 2017.” Accessed November 19, 2019. <https://www.eia.gov/state/?sid=CA#tabs-2>.

³² Ibid.

³³ California Energy Commission. Energy Consumption Data Management System. “Electricity Consumption by County.” Accessed November 19, 2019. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

³⁴ California Gas and Electric Utilities. 2019 *California Gas Report*. Accessed November 19, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

³⁵ California Energy Commission. “Natural Gas Consumption by County.” Accessed November 19, 2019. <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.³⁶ The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.³⁷ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.^{38,39}

Energy Use of Existing Development

The electricity and natural gas used by the existing building on-site is estimated below in Table 4.6-2.

Table 4.6-2: Estimated Annual Energy Use of Existing Development¹		
Land Use	Electricity Use (kWh)	Natural Gas Use (kBtu)
Commercial Building – 9,000 square feet	96,210	21,300
Parking Lot – 0.46 acres	7,013	0
Total:	103,223	21,300
Notes: ¹ Illingworth & Rodkin, Inc. <i>The Carlysle Air Quality and Greenhouse Gas Assessment</i> . March 13, 2020.		

As shown in the table above, the existing development on-site uses approximately 103,223 kWh of electricity per year and 21,300 kBtu of natural gas per year.

4.6.2 Impact Discussion

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

³⁶ California Department of Tax and Fee Administration. “Net Taxable Gasoline Gallons.” Accessed February 11, 2020. <https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist>.

³⁷ United States Environmental Protection Agency. “The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975.” March 2019.

³⁸ United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed November 19, 2019. <http://www.afdc.energy.gov/laws/eisa>.

³⁹ Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed November 19, 2019. <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

As discussed below, the proposed project would not result in a new or greater impact on energy resources than was previously disclosed in the Downtown Strategy 2040 FEIR.

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

The 0.67-acre project site is currently occupied by two attached single-story commercial buildings, totaling 8,890 square feet, a surface parking lot and a fenced open space area. The project proposes to redevelop the site with a 21-story mixed-use building containing ground floor retail, office space, and residential units. Energy consumption during construction and operation of the project is discussed below.

Construction

Construction of the project is estimated to occur over a period of 25 months and would require energy for the manufacture and transportation of building materials, preparation of the project site (i.e. demolition and grading), and the construction of the building. Construction energy usage is temporary and would not result in excessive energy consumption because construction processes are generally designed to be efficient to avoid excess monetary costs. The project would be constructed in an urbanized area with close access to roadways, construction supplies, and workers, making the project more efficient than construction occurring in outlying, more isolated areas. Excessive energy would not be spent establishing new utility connections or transporting construction materials/workers to the site. The construction process is already efficient and opportunities for increasing energy efficiency during construction are limited.

The project would be required to implement BAAQMD Best Management Practices, which would restrict unnecessary idling of construction equipment and require the applicant to post signs on the project site reminding workers to shut off idle equipment, thus reducing the potential for energy waste. According to General Plan Policy MS-14.3 and MS-2.11, the project would implement the City's Green Building Policies to ensure that construction of the project meets industry best practices and techniques are applied to maximize energy performance at the construction stage. In addition, the City's Zero Waste Strategic Plan would be implemented at a project level to enhance construction and demolition debris recycling, thus increasing diversion from landfills and further contributing to the energy efficiency of the project's construction activities. For these reasons, construction of the project would not result in wasteful or inefficient use of energy. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

The proposed project would intensify use of the site by introducing residential, office, and retail uses and increasing the size and scale of development relative to the existing use of the site. In doing so, the project would increase the demand for electricity and natural gas at the project site and in the City as a whole. Operation of the project would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Energy would

also be consumed in the form of gasoline from residential and employee vehicle trips. Table 4.6-3 below shows the estimated annual energy use of the proposed development.

Table 4.6-3: Estimated Annual Energy Use of Proposed Development¹		
Land Use	Electricity Use (kWh)	Natural Gas Use (kBtu)
High Rise Apartments – 290 units	1,197,220	2,505,440
General Office Building – 123,480 square feet	2,201,630	2,021,350
Commercial Uses – 7,600 square feet	81,276	18,019
Enclosed Parking with Elevator – 330 spaces	458,440	0
Total:	3,938,566	4,544,809
Notes: ¹ Illingworth & Rodkin, Inc. <i>The Carlyle Air Quality and Greenhouse Gas Assessment</i> . March 13, 2020.		

The proposed project would result in a net increase in energy use of approximately 3,835,343 kWh and 4,523,509 kBtu. While this increase is large, the proposed project is a mixed-use, multi-family building, which places less demand per capita on the grid when compared to single-family housing developments or standalone commercial developments. The project is an infill development which would bring new residents and employees to an area of the City where commercial, retail, and transit services are readily available. The project’s proximity to these services would reduce transportation energy demand.

The Downtown Strategy 2040 FEIR recognized that capacity build-out would result in increased demand for electricity and natural gas in the City. The proposed project would be required to be designed for energy efficiency and conservation, in accordance with the City’s Green Building Program, Reach Code, and Greenhouse Gas Reduction Strategy. The project would be subject to the Green Building Ordinance, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The Downtown Strategy 2040 FEIR concluded that capacity build-out in the downtown area (of which the proposed project is a part) would increase demand for electricity and natural gas overall but would not result in a significant energy impact with implementation of General Plan policies and existing regulations. Therefore, the project would not result in wasteful, inefficient, or unnecessary energy consumption upon implementation of General Plan policies and existing regulations. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would be designed and constructed in accordance with the City’s Private Sector Green Building Policy and the Green Building Ordinance. In addition, the proposed project would be required to comply with various local policies and regulations adopted to improve energy efficiency in new developments and increase utilization of renewable energy sources, including the City’s Green Building Program, Reach Code, Greenhouse Gas Reduction Strategy, and General Plan energy policies. Implementation of local policies and regulations would ensure the project is compliant with regional and statewide energy efficiency and renewable energy plans and policies, such as the California Public Utilities Commission’s California Long Term Energy Efficiency Strategic Plan (General Plan Policy MS-14.3), the Model Water Efficient Landscape Ordinance (General Plan

Policy MS-3.1), and CALGreen (City of San José Building Code). By adhering to adopted policies and regulations the proposed project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the 2019 CBC goes into effect on January 1, 2020.

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. The California Public Resources Code includes several provisions aimed at protecting paleontological resources in the State. Section 5097.5 prohibits “knowing and willful” excavation, removal, destruction, injury, and defacement of any “vertebrate paleontological site, including fossilized footprints” on public lands, except when granted express permission by the agency with jurisdiction over the public land in question. Section 30244 requires reasonable mitigation for impacts to paleontological resources that occur as a result of development on public lands.

Local

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Geology and Soil Policies

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

Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current 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.

4.7.1.2 Existing Conditions

Geology and Soils

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

Soils on the project site are comprised primarily of the Urban Land – Campbell complex. The soils in the project area contain weak soil layers with a moderate to very high expansion potential. A typical soil profile in the area contains silty clay, silty clay loam, and/or silt loam soils.

Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay Region. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Based on a 2015 to 3009 forecast completed by the U.S. Geological Survey, there is a 72 percent probability that one or more major earthquakes will occur in the San Francisco Bay Area by 2044.⁴⁰ Active faults near the project site include the Calaveras Fault (approximately nine miles to the east), the Hayward Fault (approximately 10.3 miles to the north), and the San Andreas Fault (approximately 11.7 miles to the west).⁴¹

⁴⁰ U.S. Geological Survey. “UCERF3: A New Earthquake Forecast for California’s Complex Fault System. Fact Sheet 2015-3009.” Accessed November 27, 2019. <http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf>.

⁴¹ USGS. “The San Andreas and Other Bay Area Faults”. Accessed November 27, 2019. <https://earthquake.usgs.gov/earthquakes/events/1906calif/virtualtour/bayarea.php>

According to California Geological Survey maps, the project site is not located within an Earthquake Fault Zone for any regional faults.⁴² Very strong ground shaking could occur at the project site during seismic events; however, the project site would not be subject to fault rupture hazards.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The proposed project is located within a State Seismic Hazard Zone for Liquefaction.⁴³

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The terrain on the site is relatively flat and it is not located within a Landslide Hazard Zone.⁴⁴ There are no sloped areas or steep embankments in the vicinity of the site which could pose a landslide hazard.

Groundwater

The project site is located within the Santa Clara Valley Groundwater Basin. There are no groundwater recharge areas on or adjacent to the project site. According to a previous subsurface investigation conducted on a nearby property (211 West Santa Clara Street), the depth of groundwater in the vicinity of the project site is estimated to be 65 feet below ground surface (bgs).⁴⁵ Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Paleontological Resources

The City of San José has been mapped to show the varying degrees of paleontological sensitivity throughout the City. The site is located in an area of high paleontological sensitivity at depth.⁴⁶

⁴² California Geological Survey. "Earthquake Zones of Required Investigation". Accessed November 27, 2019. <https://maps.conservation.ca.gov/cgs/EQZApp/app/>

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Partner Engineering and Science, Inc. *Phase I Environmental Site Assessment Report – Andy's Pet Shop*. September 10, 2019.

⁴⁶ City of San José. *Envision San José 2040 General Plan FPEIR*. Figure 3.11-1. September 2011.

4.7.2

Impact Discussion

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

As discussed below, the proposed project would not result in a new or greater geology and soils impact than was disclosed in the Downtown Strategy 2040 FEIR.

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

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone, making fault rupture at the site unlikely. While existing faults are located within 10 miles of the site (Calaveras Fault), the proposed project is outside of the fault zone, and significant impacts from fault ruptures are not anticipated to occur. **[Same Impact as Approved Project (Less than Significant Impact)]**

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. During an earthquake, very strong ground shaking could occur at the project site.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. A design-level geotechnical investigation report addressing potential seismic and geologic hazards would also be required. Consistent with City requirements, the following condition shall be implemented by the proposed project to ensure seismic hazards are addressed.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will 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 project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.

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

Liquefaction

The proposed project is located in a State Seismic Hazard Zone for Liquefaction. According to the City's Municipal Code, a Certificate of Geologic Hazard Clearance is required for the project due to its location within a Geologic Hazard Zone. A Certificate of Geologic Hazard Clearance must be issued for the proposed project prior to issuance of grading and/or development permits. By subjecting the proposed project to review by the City of San Jose's geologist and requiring geologic hazard clearance from the Director of Public Works, and adhering to the standard permit conditions described above, hazards posed by seismically-induced liquefaction would be reduced to less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Landslides

The project site is located within the relatively flat downtown area of San José. There are no hillsides or areas of differential elevation within the vicinity of the project site. As such, it is not located within a Geologic Hazard Zone for Landslides, and the proposed project would not pose a risk to human or building safety due to earthquake-induced landslides. **[Same Impact as Approved Project (Less than Significant Impact)]**

Lateral Spreading

Lateral spreading is a geologic hazard commonly associated with liquefaction. This phenomenon occurs when ground-shaking induces the horizontal displacement of relatively flat-lying soil towards an open or "free" face such as an open body of water, drainage channel, or excavation. Lateral spread presents a significant hazard to the integrity of buildings and other structures that are located in seismically active regions, such as the San Francisco Bay Area. The proposed project is not located adjacent to Coyote Creek or Guadalupe River, the two most prominent waterways in the greater downtown area, nor is it located adjacent to any drainage channel or excavation site. Adherence to the recommendations of a design-level geotechnical investigation would reduce the risk of lateral spreading to life and property to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Ground disturbance on the project site would occur during the demolition of the existing single-story building, excavation for the below-grade basement level, and construction of the proposed 21-story building. These activities could increase the exposure of soil to wind and water erosion. General Plan Action EC-4.5 requires an Erosion Control Plan for private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. The proposed project would disturb approximately 0.67 acres of land on-site, and it is not located in a hillside area or adjacent to any creek or river. The project would not meet the criteria required for an Erosion Control Plan. Nonetheless, the City will require all phases of the project to comply with all applicable City regulatory programs pertaining to construction-related erosion, including the following standard permit conditions.

Standard Permit Conditions:

- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Install ditches to divert runoff around excavations and graded areas if necessary.

By implementing the above listed erosion control measures, potential soil erosion impacts would be reduced to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As mentioned previously, groundwater levels under the project site are approximately 65 feet bgs. The proposed project would excavate to a minimum depth of 12 feet bgs for the basement level. Excavation activities proposed by the project are not anticipated to encounter groundwater; however, due to the variability in groundwater levels, dependent on precipitation, rate of recharge, and other factors, there is the potential that groundwater is encountered during construction. Dewatering of groundwater can result in ground settlement, which can impact the structural stability of the proposed building and/or nearby buildings and structures.

Consistent with the Downtown Strategy 2040 FEIR and City policy, the project would implement the following condition to reduce and/or avoid impacts related to ground settlement.

Standard Permit Condition:

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

With implementation of the above measure, the project would result in a less than significant impact related to soil instability from construction dewatering. Any other potentially hazardous geologic units or soils would be addressed consistent with the required design-level geotechnical investigation. **[Same Impact as the Approved Project (Less than Significant Impact)]**

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

The soils underlying the project site have moderate to very high expansion potential. By adhering to the recommendations included in the geotechnical investigation for soil and seismic hazards and implementing the following standard permit conditions, the proposed project would not result in a significant impact due to the underlying soils.

Standard Permit Condition:

- Construct the project in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the San José Department of Public Works prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Furthermore, refer to checklist question a) and b) for additional discussion on soil. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The disposal of wastewater from the project site will be facilitated by connection to the City’s existing sewer system. The existing utilities in the project area would serve the proposed mixed-use project. Two new sanitary laterals from the proposed building would connect to the existing 12-inch sanitary main in Carlisle Street.

No on-site septic system would be constructed for the proposed project. By connecting to existing City sewer lines, as described above, the proposed project would avoid potential impacts related to wastewater disposal via an on-site septic system or alternative wastewater disposal system. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

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

Consistent with the Downtown Strategy 2040 FEIR, the project would implement the following standard permit conditions to reduce and avoid impacts to undiscovered paleontological resources.

Standard Permit Conditions:

- If vertebrate fossils are discovered during construction, all work on the site will stop immediately, the Director of Planning, Building and Code Enforcement or the Director’s designee 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 PBCE or the Director's designee.

Consistent with the Downtown Strategy 2040 FEIR, implementation of the standard permit conditions discussed above would reduce impacts to paleontological resources to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7.3 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 geology and soils conditions affecting a proposed project.

The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environment effects resulting from planned development within the City. The proposed project is located in a seismically active region. The project site is located within a liquefaction zone and would experience very strong ground shaking during an earthquake. The site is not located within any other Earthquake Zones of Required Investigation.

Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Pursuant to the Downtown Strategy FEIR, prior to issuance of 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 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 proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and requires review and implementation of mitigation measures as part of the project approval process.

The proposed project would be required to comply with applicable City policies for reducing geologic and soil impacts from new development. The proposed project would be built and maintained in accordance with applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California. The General Plan FEIR, SEIR, and Addenda thereto and the Downtown Strategy 2040 EIR concluded that adherence to the California Building Code would reduce seismic related impacts and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous site conditions.

Because the proposed project would comply with a design-level geotechnical report, the California Building Code, and regulations identified in the General Plan FEIR, SEIR, and Addenda thereto, the project would comply with Policies EC-4.2 and EC-4.4 and would not result in the exposure of future residents to significant geologic or soil hazards.

4.8 GREENHOUSE GAS EMISSIONS

The discussion in this section is based in part on a greenhouse gas assessment prepared by Illingworth & Rodkin, Inc. A copy of the report, dated March 13, 2020 is included as Appendix A of this IS/Addendum.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO₂ equivalents (CO₂e). The most common GHGs are carbon dioxide (CO₂) and water vapor but there are also several others, most importantly methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO₂ and N₂O are byproducts of fossil fuel combustion.
- N₂O is associated with agricultural operations such as fertilization of crops.
- CH₄ is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF₆ emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

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

4.8.1.2 Regulatory Framework

State

Assembly Bill 32

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

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO₂E (MMTCO₂e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO₂e.

Senate Bill 375

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

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

Regional

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Local

City of San José General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated into the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA *Air Quality Guidelines*, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City's GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary and could be incorporated as mitigation measures for proposed projects, at the City's discretion. The GHG Reduction Strategy was adopted by City Council in 2015.

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

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR (as supplemented). Beyond 2020, the emission reductions in the GHG Reduction Strategy are not enough to meet the City's identified 3.04 metric tons (MT) CO₂e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO₂e per year would be required for the projected service population to meet the City's target for 2035.⁴⁷

The substantial communitywide GHG emissions reductions needed beyond 2020 cannot be achieved solely by implementing the measures identified in the GHG Reduction Strategy. The General Plan FEIR (as supplemented) disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other

⁴⁷ As described in 2040 General Plan EIR, the 2035 efficiency target above reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO₂e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050.

agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental FEIR to the General Plan FEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

The following General Plan policies are related to GHG emissions and are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policy	Description
Action MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

City of San José Municipal Code

The City’s Municipal Code includes the following regulations designed to reduce GHG emissions from development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of

neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted the Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

4.8.1.3 Existing Conditions

The project site is currently occupied by an approximately 8,890-square foot single-story commercial building, a surface parking lot, and an open space area. GHG emissions are generated from operational activities of the existing building, such as energy usage and associated vehicular traffic to and from the site. The existing building on the project site is estimated to generate 246 MT of CO_{2e} per year.

4.8.2 Impact Discussion

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

4.8.2.1 BAAQMD Significance Thresholds

The BAAQMD’s CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified GHG reductions plan (i.e., a Climate Action Plan). The plan has to address emissions associated with the period that the project would operate (e.g., beyond year 2020). For quantified emissions, the guidelines recommended a GHG threshold of 1,100 MT or 4.6 MT per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a “Substantial Progress” efficiency metric of 2.6 MT CO_{2e}/year/service population consistent with the GHG reduction goals of EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. This service population threshold 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.⁴⁸

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

Construction Emissions

Future development would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of construction period, types of equipment, etc. CalEEMod was used to quantify the project's construction emissions. Construction of the project, including on-site operation of construction equipment, vendor and hauling truck trips, and worker trips, would generate approximately 1,821 MT of CO₂e. BAAQMD recommends the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the project include but are not limited to using local building materials of at least 10 percent and recycling or reusing at least 50 percent of construction waste or demolition materials. Because project construction would be temporary and would not result in a permanent increase in GHG emissions that would interfere with the implementation of SB 32, the increase in emissions would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operational Emissions

Operational emissions resulting from capacity build-out of the Downtown Strategy 2040 were analyzed in the Downtown Strategy 2040 FEIR. The FEIR determined that full build-out through 2030 would not exceed the 2030 substantial progress threshold of 2.6 MT of CO₂e per service population annually, while full build-out through 2040 would exceed the 2040 substantial progress threshold of 1.7 MT of CO₂e per service population annually. Build-out of the Downtown Strategy 2040 was found to result in a significant GHG emissions impact under 2040 conditions. The proposed project completed an individual assessment of its GHG emissions through 2030 to determine if the project would exceed the service population thresholds that would be current when the building becomes fully operational (i.e. efficiency metric of 2.6 MT CO₂e/year/service population).

As with construction emissions, CalEEMod was used to estimate operational emissions of the project. The service population was estimated based on the number of future residents and future full-time employees of the proposed project. For the proposed project, the number of future residents was estimated to be 928 residents and the number of employees was estimated to be 736 full-time employees, for a total service population of 1,664 individuals.⁴⁹ Vehicle trip generation rates were

⁴⁸ Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April 2016.

⁴⁹ For residents, this was based on 3.20 persons per household. For employees, this was estimated using a rate of one office worker per 175 square feet of office space and one retail worker per 250 square feet of retail space.

included based on the traffic report (Appendix E1). The operational GHG emissions of the project are shown below in Table 4.8-1.

Table 4.8-1: Annual Project GHG Emissions (CO₂e) in Metric Tons				
Source Category	Existing Land Uses		Proposed Project	
	2023	2030	2023	2030
Area	<1	<1	15	15
Energy Consumption	31	31	244	244
Mobile	208	173	1,310	1,086
Solid Waste Generation	5	5	129	129
Water Usage	2	2	67	67
Total (MT CO ₂ e/yr)	246	211	1,765	1,541
Net Emissions	-	-	1,519 MT CO₂e/year	1,330 MT CO₂e/year
Bright-Line Significance Threshold			660 MT CO₂e/year	
<i>Service Population Emissions (MT CO₂e/year/service population)</i>	-	-	1.1	0.9
Per Capita Significance Threshold			2.6 MT of CO₂e/year/service population	
Exceed both thresholds?	-	-	<i>No</i>	<i>No</i>

As shown in Table 4.8-1 above, annual emissions resulting from operation of the proposed project are predicted to be 1,519 MT of CO₂e in 2023 and 1,330 MT of CO₂e in 2030. The service population emissions for the years 2023 and 2030 are predicted to be 1.1 and 0.9 MT/CO₂e/year/service population, respectively. To be considered significant, the project must exceed both the GHG significance threshold in metric tons per year and the service population significance threshold. The project would exceed the 2030 operational annual emissions bright-line threshold of 660 MT CO₂e/year in 2023 and 2030; however, the project would not exceed the service population efficiency metric of 2.6 MT CO₂e/year/service population in either 2023 or 2030. Therefore, the project would result in a less than significant operational GHG emissions impact.

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

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

City of San José Greenhouse Gas Reduction Strategy

The proposed project involves the demolition of an existing commercial building and construction of a 21-story office/retail/residential building. It is expected that the proposed project would contribute marginally to regional GHG emissions, both through construction and operational emissions. While the construction and operation of this project would not be completed prior to 2020, in this interim, the project would continue to comply with all applicable mandatory measures and voluntary measures required by the City to ensure its consistency with the City's GHG Reduction Strategy.

The City of San José's GHG Reduction Strategy was developed in accordance with the BAAQMD CEQA Guidelines, and in accordance with CEQA Guidelines Section 15183.5, where GHG Reduction Plans are specifically addressed. The GHG Reduction Strategy lists mandatory criteria that development projects must satisfy in order to be consistent with City goals and policies. The mandatory criteria for development projects are listed below.

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 use of the project site is consistent with the current land use designation and zoning district (see Section 4.10 Land Use and Planning). This would satisfy Criteria 1 listed above. The proposed project would be constructed in compliance with the San José Green Building Ordinance (as set forth in Municipal Code Section 17.84). Thus, the proposed project would satisfy Criteria 2. The proposed project would include bicycle parking spaces in alignment with the Zoning Ordinance and would support pedestrian use of the surrounding area by providing residential and employment opportunities near amenities, services and transit options in downtown San José. The project would not alter or inhibit pedestrian or bicycle circulation patterns in the surrounding areas or interfere with planned expansions of the city's multimodal infrastructure. Therefore, the project would be consistent with Criteria 3. The existing building on the site which is proposed for demolition was not found to be historic (refer to Section 4.5 Cultural Resources); therefore, Criteria 4 would not be

applicable. The proposed project is not an energy-intensive use; therefore, Criteria 5 would not be applicable. The proposed project includes 123,479 square feet of office space and would be considered a large employer⁵⁰; accordingly, a TDM plan has been prepared consistent with General Plan Policy TR-7.1 (see Appendix E2). The proposed project would implement TDM measures, including the provision of a carpool/vanpool or carshare program, preferential parking with charging stations for electric or alternatively-fueled vehicles, and a bicycle share program or free use of bicycles on-site that are available to all tenants of the site.⁵¹ Therefore, the proposed project would be consistent with Criteria 6. No drive-through or vehicle serving uses are proposed; thus, Criteria 7 would not be applicable.

For the reasons described above, the proposed project would not conflict with any of the mandatory criteria set forth in the City's GHG Reduction Strategy. Therefore, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Climate Smart San José

Climate Smart San José has been adopted by the City with the purpose of creating a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 Energy, the project would be subject to the Green Building Policy, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. As discussed above and in Section 4.17 Transportation, the proposed project would include a TDM plan to reduce vehicle trips to and from the site and encourage alternative mode shares. The proposed project is in a Planned Growth Area which is well-served by transit. Furthermore, the proposed project is an infill development which would densify the use of the site and bring new jobs to an already developed area. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁵⁰ A large employer is defined as an employer with a minimum of 50 full-time employees or an equivalent number of part-time employees.

⁵¹ Watry Design, Inc. *Memorandum – The Carlyle TDM Plan*. October 3, 2019.

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based, in part, on Phase I Environmental Site Assessments (ESA) prepared for the project site by *Partner Engineering and Science, Inc.* The Phase I ESAs, dated September 10, 2019, are attached to this IS/Addendum as Appendix C.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

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, commonly known as Superfund, and the Resource Conservation and Recovery Act. 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. 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.

Federal and State

Federal Aviation Regulations Part 77

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

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, \$1.6 billion was collected and the tax went to a trust fund for

cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response;
- Long-term remedial response actions, that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be conducted only at sites listed on EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.⁵²

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. The RCRA gives EPA the authority to control hazardous waste from the "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization and phasing out land disposal of hazardous waste as well as corrective action for releases. Some of the other mandates of this law include increased enforcement authority for EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.⁵³

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local

⁵² USEPA. "Superfund: CERCLA Overview." Accessed May 11, 2020.

<https://www.epa.gov/superfund/superfund-cercla-overview>

⁵³ USEPA. "Summary of the Resource Conservation and Recovery Act." Accessed May 11, 2020.

<https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act>

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) and State Water Resources Control Board (SWRCB).⁵⁴

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 a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

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 guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

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

Regional and Local

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees

⁵⁴ CalEPA. "Cortese List Data Resources." Accessed October 22, 2019. <https://calepa.ca.gov/sitecleanup/corteselist>.

develop an assessment protocol methodology for managing materials with PCBs in applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.⁵⁵ Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Envision San José 2040 General Plan

In addition to the above regulations, various policies in the City’s General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. The proposed project would be subject to the hazards and hazardous materials policies of the City’s General Plan, including the following:

Envision San José 2040 Relevant Hazardous Materials Policies

Policy	Description
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
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.
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.
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.
EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
EC-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.

⁵⁵ California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit*. November 2015.

- Action EC-6.8 The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
- Action EC-6.9 Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.
- Action EC-7.8 When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in 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.
-

4.9.1.2 Existing Conditions

The approximately 0.67-acre project site is developed with two attached single-story commercial buildings, a surface parking lot, and a fenced open space area. The site is located in downtown San José and is surrounded by development on all sides. Surrounding uses include surface parking and a vacant single-story former courthouse building and judo studio to the north, a high-rise residential building to the east, a residential mixed-use high-rise building to the south, and a parking garage and the SR 87 freeway to the west.

The following discussion pertains to the historical uses of the project site and potential on- and off-site sources of contamination affecting the site. The discussion is divided by the on-site parcels which were analyzed in separate Phase I ESAs.

Site History

Historical information about the project site was obtained from a variety of sources, including aerial photographs, Sanborn insurance maps, building records, City directories, interviews, and on-site observations.

Andy's Pet Shop (APN 259-35-027, -032, -033)

According to available historical sources, this property was formerly undeveloped as early as 1884; developed with a children's playground between 1899 and circa 1891; developed with gardens associated with the Convent of the Sacred Heart Boarding School to the northeast between 1891 and 1915; and developed with the current one-story commercial building in 1937. Various commercial uses have occupied the building from its construction until the present day, including a grocery store, meat market, dry cleaners, a driving school, a Salvation Army, and office supply store. The subject property has been occupied by Andy's Pet Shop since 2010.

The Dog Park (APN 259-35-026)

According to available historical resources, this property was formerly undeveloped as early as 1884; developed with a children's playground between 1899 and circa 1891; developed with gardens associated with the Convent of the Sacred Heart Boarding School between 1891 and 1915; vacant land between at least 1937 and 1956; developed with a one-story fire administration building circa 1963 through 2001; and vacant land until development with the existing dog park in 2010.

On-Site Sources of Contamination

The project site is not included on a list of hazardous materials sites pursuant to Government Code Section 65962.5 (Cortese List).⁵⁶ The Phase I ESA prepared for Andy's Pet Shop noted the presence of one recognized environmental condition (REC) on-site. A REC refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property, due to release to the environment, under conditions indicative of a release to the environment, or under conditions that pose a material threat of a future release to the environment. The REC on-site is described below:

- Based on a review of historical records, a dry-cleaning facility operating under the name Notre Dame Cleaners was located on the property at 65 Notre Dame Avenue (APN 259-35-032) from at least 1955 to 1960. Based on a city directory review, the property address of 65 Notre Dame Avenue was also occupied by a driving school during this timeframe. No city directories were available prior to 1955; however, a 1950 Sanborn map shows that this portion of the site was occupied by a grocery warehouse and was not subdivided into separate units, as was later depicted in the 1969 Sanborn map. Therefore, based on the information available, it appears the former dry cleaning tenant occupied the subject property for a relatively limited duration. Furthermore, no documentation was available to confirm whether on-site dry cleaning was conducted. However, the dry cleaner operated prior to a time of common environmental regulatory oversight. Dry cleaning operations typically use chlorinated solvents, particularly tetrachloroethylene (PCE), during the dry-cleaning process. These solvents, even when properly stored and disposed, can be released from these facilities in small, frequent releases through floor drains, cracked concrete, and sewer systems. Chlorinated solvents are highly mobile chemicals that can easily accumulate in soil and migrate to groundwater beneath a facility. The presence of a dry-cleaning facility on the property represents evidence of a REC.

⁵⁶ CalEPA. "Cortese List Data Resources". Accessed November 27, 2019. <https://calepa.ca.gov/sitecleanup/corteselist>.

No RECs were noted in the Phase I ESA prepared for the dog park portion of the project site. A historical recognized environmental condition (HREC) refers to a past release of any hazardous substances or petroleum products that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls. No HRECs were identified in the Phase I ESAs prepared for Andy's Pet Shop or the dog park.

An environmental issue refers to environmental concerns which do not qualify as RECs but warrant further discussion. Two environmental issues were identified in the Phase I ESA prepared for Andy's Pet Shop, as described below:

- There is potential that ACMs are present on-site. The EPA's NESHAP requires that an asbestos survey be performed prior to demolition or renovation activities that may disturb ACMs. This require may be enforced by the local air pollution control or air quality management district, and specifies that all suspect ACMs be sampled to determine the presence or absence of asbestos prior to any renovation or demolition activities to prevent potential exposure to workers and/or building occupants.
- Due to the age of the building on-site, there is a potential that lead-based paint (LBP) is present. Stringent local and State regulations may apply to lead-based paint in association with building demolition/renovations and worker/occupant protection. It should be noted that construction activities that disturb materials or paints contain any amount of lead may be subject to certain requirements of the OSHA lead standard contained in 29 CFR 1910.1025 and 1926.62.

There were no environmental issues identified in the Phase I ESA prepared for the dog park portion of the project site.

Off-Site Sources of Contamination

Regulatory databases were reviewed to determine potential off-site sources of contamination which could affect the project site. The project site is located within one mile of numerous sites which are listed on regulatory databases for previous hazardous materials releases and/or ongoing contamination concerns. Based on either the regulatory status of the adjacent sites (i.e. closed case), regulatory oversight, lack of documented violations, analytical results from prior sampling, or the direction of groundwater flow, none of the nearby listed sites represent a significant environmental concern to the project site. For a complete discussion of each of the listed sites, refer to Appendices C1 and C2.

Airports

The project site is located within the Airport Influence Area (AIA) of the Norman Y. Mineta San José International Airport (SJIA).⁵⁷ The AIA is a composite of the areas surrounding the airport that

⁵⁷ Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. Figure 8. Adopted May 25, 2011. Amended November 16, 2016.

are affected by noise, height, and safety considerations. The project site is located within the 65 to 70 CNEL noise contours for the airport.⁵⁸

Wildfire Hazards

The site is within the city limits and is not within a State of California Very High Fire Hazard Severity Zone at the wildland and urban interface.⁵⁹

4.9.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁵⁸ Norman Y. Mineta San José International Airport. “2027 CNEL Contours”. Accessed November 27, 2019. <https://www.flysanjose.com/node/2206>

⁵⁹ California Department of Forestry and Fire Protection. *Fire Hazard Severity Zones Maps*. Accessed November 27, 2019. http://www.fire.ca.gov/fire_prevention/fhsz_maps_santaclara

As discussed below, the proposed project would not result in a new or greater hazards and hazardous materials impact than was previously disclosed in the Downtown Strategy 2040 FEIR.

a) Would the project create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?

The Downtown Strategy 2040 FEIR identified that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. As the project is a mix of residential, office, and commercial retail development, the operation of the proposed project would likely include the on-site use and storage of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. Based on the proposed use of the site, the project would not create a significant hazard to the public or environment from the use, transport or storage of these chemicals. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) 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?

Soil and Groundwater Contamination

The project site is not listed as a hazardous materials site and no hazardous materials releases have been documented which could affect the proposed redevelopment. However, based on the Phase I ESA prepared in September 2019 for the eastern portion of the site (Andy's Pet Shop), one REC exists on the site, related to the former presence of a dry cleaners on the project site between 1955 and 1960. As discussed previously, dry cleaning operations typically use chlorinated solvents, including PCE, during the dry-cleaning process. These solvents, even when properly stored and disposed, can be released from these facilities in small, frequent releases through floor drains, cracked concrete, and sewer systems. Chlorinated solvents are highly mobile chemicals that can easily accumulate in soil and migrate to groundwater beneath a facility. Site excavation and grading could result in impacts to construction workers from exposure to contaminated soils and groundwater during construction activities. The Phase I ESA recommended a limited subsurface investigation of this portion of the site (65 Notre Dame Avenue) to characterize the levels of potential contamination on-site. No off-site sources of contamination were identified.

Impact HAZ-1: Construction activities in the portion of the site formerly occupied by a dry cleaners could result in exposure of construction workers, adjacent uses, and the environment to soil and groundwater contamination.

Mitigation Measures: Consistent with the standard measures in the Downtown Strategy 2040 FEIR, the following mitigation measures shall be implemented by the project to reduce soil and groundwater contamination impacts.

MM HAZ-1.1: Prior to issuance of grading permits, the project applicant shall retain a qualified hazardous materials contractor to perform a soil and groundwater

investigation (i.e., Phase II Environmental Site Assessment) to determine the levels of contamination from PCEs and other chlorinated solvents in the project area. If the residual contaminants are not detected and/or are found to be below the environmental screening levels for public health and the environment in accordance with Santa Clara County Department of Environmental Health (SCCDEH), Regional Water Quality Control Board (RWQCB), or the California Department of Toxic Substances Control (DTSC) requirements, no further mitigation is required. The results of the soil and groundwater investigation shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement or the Director's designee and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.2: If residual contaminants are found and are above regulatory environmental screening levels for public health and the environment, the project proponent shall enter the Site Cleanup Program with the SCCDEH. The SCCDEH may require the project proponent to implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP), Removal Action Workplan (RAP), or equivalent document. Copies of all environmental investigations and evidence of SCCDEH oversight shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

With implementation of the mitigation measures described above, the proposed project would result in a less than significant impact due to soil and groundwater contamination. **[Same Impact as Approved Project (Less than Significant Impact)]**

Asbestos-Containing Materials and Lead-Based Paint

The building at 51 Notre Dame Avenue was constructed in 1937 and the attached structure at 65 Notre Dame Avenue was added in 1949. Due to their age (constructed prior to 1978), it is likely that the buildings on-site contain ACMs and LBPs. Demolition of the buildings could release asbestos particles and expose construction workers and nearby building occupants to harmful levels of asbestos and lead. It will be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead and/or asbestos must be disposed of appropriately.

The project is required to implement the following standard permit conditions measures to reduce impacts due to the presence of ACMs and/or LBPs.

Standard Permit Conditions:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of ACMs and/or LBP.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
 - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

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

Dewatering During Construction

As discussed in Section 4.7 Geology and Soils, excavation activities on-site are not anticipated to encounter groundwater; however, this remains a possibility due to seasonal fluctuations in groundwater levels. Water discharge from construction dewatering to the sanitary sewer is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB and the City's Environmental Services Division. With implementation of existing regulations,

dewatering during construction, if required, would not create a significant health and safety impact to construction workers or persons on adjacent sites. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) 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?

The nearest school to the project site is Horace Mann Elementary School, located approximately 0.8 miles to the east. Based on the proposed use of the site, the proposed project would not result in hazardous emissions or hazardous materials being transported to and from the site, nor would hazardous waste be produced or disposed of with implementation of the project. Therefore, the proposed project would not present a risk to the sensitive receptors located at the nearby school due to hazardous emissions, materials transport, or waste generation. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) 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, create a significant hazard to the public or the environment?

As mentioned in Section 4.9.1.1 Existing Conditions, the project site is not on the Cortese List. Therefore, the project would not create a significant hazard to the public or the environment due to its listing as a hazardous materials site. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

While the project site is not located within a CLUP-defined safety zone, the project is located within the Norman Y. Mineta San José International AIA. The AIA is a composite of the areas surrounding the airport that are affected by noise, height, and safety considerations.⁶⁰ The project would be subject to the safety and noise policies identified in the CLUP.

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

⁶⁰ Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport*. May 2011. Accessed January 24, 2018. https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf.

At a proposed maximum height of 249 feet, six inches above ground, the project is required to be reviewed by the FAA for FAR Part 77 conformance. The project would be subject to the appropriate FAA clearance prior to obtaining a building permit for vertical construction, as is described in the standard permit conditions below.

Standard Permit Conditions:

- **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a ““Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

By adhering to City policies and the standard permit conditions above, the proposed project would not result in a substantial safety hazard for people residing or working at the project site. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The proposed project would redevelop an urban, downtown site without modifying the existing roadway network; therefore, the project would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

The proposed project site is located in a highly urbanized area of downtown San José. There are no areas susceptible to wildfire in the project vicinity. Therefore, the project would not expose people or structures to substantial risk as a result of potential wildfires. **[Same Impact as Approved Project (No Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

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 EPA and the 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 and State

Clean Water Act

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, the EPA has implemented pollution control programs and developed national water quality criteria recommendations for pollutants in surface water. The CWA made it unlawful to discharge any pollutant from a point source into navigable waters unless a permit was obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters.⁶¹

National Flood Insurance Program

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

National Pollution Discharge Elimination System (NPDES) General Permit for Construction Activity

The SWRCB has implemented a NPDES General Construction Permit for the State of California. Dischargers whose projects disturb one (1) or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres,

⁶¹ EPA. "Summary of the Clean Water Act." Accessed May 15, 2020. <https://www.epa.gov/laws-regulations/summary-clean-water-act>

are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit). Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. In order to obtain coverage under the Construction General Permit, a Notice of Intent (NOI) must be filed with the RWQCB, and Storm Water Pollution Prevention Plan (SWPPP) must be developed by a certified Qualified SWPPP Developer (QSD) prior to commencement of construction.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) 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

Municipal Regional Stormwater NPDES Permit/C.3 Requirements

The San Francisco Bay RWQCB also issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the MRP, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all post-construction runoff to be treated using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. Prior to receiving any LID Reduction Credits, the project must first establish the infeasibility of treating 100 percent of runoff with LID treatment measures. A narrative must be submitted to the City that describes why and how the implementation of 100 percent LID treatment measures are not feasible, in accordance with the MRP.

The MRP also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace one acre or more of impervious surface, and are located in a sub-watershed or catchment that is less than 65% impervious, must manage increases in runoff flow and volume so that post-project runoff does not exceed estimated pre-project rates and durations.

Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan or “Basin Plan”. The Basin Plan lists the beneficial uses that the 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 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.

Local

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

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

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

The City of San José’s Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

The proposed project is exempt from the NPDES hydromodification requirements related to preparation of an HMP because the project does not propose to replace one acre or more of impervious surface area (the minimum size threshold).

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Description
IN-3.1	Achieve minimum level of services: <ul style="list-style-type: none">• For sanitary sewers, achieve a minimum level of service “D” or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.

	<ul style="list-style-type: none"> • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).
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.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
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.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
Action ER-8.10	Participate in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and take other necessary actions to formulate and meet regional water quality standards which are implemented through the NPDES permits and other measures.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.10.1.2 *Existing Conditions*

The project site is located in a developed urban environment in the northern portion of downtown San José. The two main waterways in the downtown area are Guadalupe River and

Coyote Creek and the project site is not adjacent to either waterway. Guadalupe River is the closest waterway to the site and is approximately 800 feet to the west.

Hydrology and Drainage

The 0.67-acre project site is located in the Guadalupe River watershed.⁶² The Guadalupe River watershed drains approximately 171 square miles, beginning on the Santa Clara Valley floor at the confluence of Alamos Creek and Guadalupe Creek and flowing until its discharge point at the Lower South San Francisco Bay. The project site is comprised almost entirely of impervious surfaces, with stormwater draining from the site into the City’s storm drainage system, to the Guadalupe River, and eventually into the South San Francisco Bay.

Flooding and Other Hazards

The project site is not located in a 100-year floodplain, according to FEMA Flood Insurance Rate Maps for Santa Clara County.⁶³ The project site is designated as a Flood Zone X (Other Flood Areas). Flood Zone X (Other Flood Areas) indicates areas determined to be either: 1) within the 0.2 percent annual chance floodplain; 2) within the one percent annual chance floodplain with average depths of less than one foot or drainage areas less than one square mile; or 3) areas protected by levees from the one percent annual chance flood. Flood Zone X (Other Flood Areas) is not a Special Flood Hazard Area, therefore no requirements are placed on new development in this area by the City of San José or the County of Santa Clara as it relates to flood insurance and/or flood protection.

The project site is located within the Anderson Dam Failure Inundation Zone as identified in the General Plan 2040 FEIR (as amended). The site would be subject to inundation resulting from potential failure of Anderson Dam.

Due to the project site’s inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise. The site is located on flat terrain and would not be subject to potential mudslides.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁶² City of San José. “San José’s Creeks & Rivers.” <http://www3.sanjoseca.gov/esd/stormwater/watersheds.asp>. Accessed February 6, 2020.

⁶³ Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No. 06085C0234H*. Effective Date: May 18, 2009.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:				
b) 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 checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– result in substantial erosion or siltation on- or off-site;	<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 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 checked="" type="checkbox"/>	<input type="checkbox"/>
– impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

As discussed below, the proposed project would not result in a new or greater hydrology and water quality impact than was disclosed in the Downtown Strategy 2040 FEIR.

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

Construction-Related Water Quality Impacts

Construction activities, such as grading and excavation, have the potential to result in temporary impacts to surface water quality in local waterways. When disturbance to the soil occurs, sediments may be dislodged and discharged to the storm drainage system, carried by surface runoff flows across the site. The proposed project would result in the disturbance of approximately 0.67 acres of land, which is less than the one-acre threshold for required compliance with the Construction General Permit. Although the project would not be required to file an NOI and prepare a SWPPP, as required

by the Construction General Permit, standard permit conditions for construction activities will be included in the project to reduce the potential for water quality impacts during construction.

Standard Permit Conditions: Consistent with the Downtown Strategy 2040 FEIR, best management practices to prevent stormwater pollution and minimize potential sedimentation shall be implemented during project construction, including but not limited to the following:

- Install burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Suspend earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- Water all exposed or disturbed soil surfaces at least twice daily to control dust, as necessary.
- Water or cover stockpiles of soil or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks.
- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers).
- Replant vegetation in disturbed areas as quickly as possible.
- Fill with rock all unpaved entrances to the site to remove mud from truck tires prior to entering City streets. Install a tire wash system if requested by the City.
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Construction of the proposed project, with implementation of the above conditions, would not result in significant construction-related water quality impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction Water Quality Impacts

The proposed project would result in the construction of approximately 29,100 square feet of new and replaced impervious surfaces. Because the project would remove and replace more than 10,000 square feet of impervious surfaces, it would be subject to Provision C.3 of the MRP. This requires that the project incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project. The following measures reflect this requirement:

Consistent with the General Plan and Downtown Strategy 2040 FEIRs, the project will be required to implement the following measures:

- The proposed project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures shall meet the numeric sizing design criteria specified in City Policy 6-29;

- The project’s Stormwater Control Plan and numeric sizing calculations will be in conformance with City Policy 6-29;
- Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of Public Works Clearance.

Because of the infill nature of the project, the project would qualify under Provision C.3 of the MRP and City Policy 6-29 as a Special Project. As such, the project would be allowed to provide the required amount of on-site runoff treatment using non-LID measures. The project proposes the use of a media filter vault to provide the on-site runoff treatment, as shown on the project’s Stormwater Control Plan.

The 2040 General Plan FEIR has determined that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on water quality. By implementing the standard permit conditions described above and complying with the requirements of the MRP, the proposed project would have a less than significant impact on post-construction water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. As mentioned in the Downtown Strategy 2040 FEIR, there are no designated groundwater infiltration sites within the downtown area, and planned buildout within the scope of the 2040 General Plan does not include areas within any of the Santa Clara Valley Water District’s (Valley Water) 18 major groundwater recharge systems.

As discussed, the proposed below-grade basement level may require dewatering of groundwater underneath the site, dependent on groundwater levels at the time of construction. However, compliance with the MRP, City Council Policy 6-29, and the standard permit conditions detailed in Section 4.7.2 Geology and Soils and mitigation measures in Section 4.9.2 Hazards and Hazardous Materials, would ensure that contamination of groundwater is avoided. Infiltration treatment measures are also limited by these policies in the interest of protecting groundwater quality. By adhering to the MRP and City Council Policy 6-29, the proposed project would not result in a significant impact to groundwater quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would increase the impervious surface area on the site by 24 percent (7,119 square feet) and decrease pervious surface area by 24 percent (7,119 square feet), as shown below in Table 4.10-1. This would result in an increase of post-construction runoff rates. The drainage pattern of the project site would not be substantially altered by the proposed demolition and construction, as the site is largely impervious in its current condition. Further, the project would comply with the MRP and City Council Policy 6-29, removing pollutants and reducing the rate and volume of runoff from the site through the installation of post-construction Treatment Control Measures. The project is located on relatively flat terrain, thus a significant increase in erosion or siltation is not expected.

Table 4.10-1: Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sq ft)	%	Project/Post-Construction (sq ft)	%	Difference (sq ft)	%
Impervious Surfaces						
Roof Area	8,934	31	29,099	100	+20,165	+69
Parking	13,046	45	0	0	-13,046	-45
Sidewalks, Patios, Driveways, etc.	0	0	0	0	0	0
Streets	0	0	0	0	0	0
<i>Subtotal</i>	21,980	76	29,099	95	+7,119	+24
Pervious Surfaces						
Landscaping	7,119	24	0	0	-7,119	-24
Total:	29,099	100	29,099	100		

The Downtown Strategy 2040 FEIR has identified project-level measures for proposed development projects in the downtown area that will reduce stormwater drainage impacts to a less than significant level.

Required Downtown Strategy 2040 FEIR Measures

- New development will be required to design and construct on-site storm drain systems meeting the City’s 10-year storm event design standard (GP Policies IN-3.1 and IN-3.7). Applicants shall prepare drainage plans that define needed improvements in accordance with City standards and MRP requirements (GP Policies IN-3.9 and IN-3.10).
- In accordance with GP Policy IN-3.3, at the time future projects are proposed, the City will evaluate the local storm drain system to determine if runoff from the site would contribute to

significant downstream deficiencies and identify the need for specific upgrades (i.e., new or supplemental stormwater lines, catch basins, outfalls, or other infrastructure).⁶⁴ If needed, modifications to the storm drain system could be completed either independently, jointly with other developments in the area, or as part of the City’s CIP process. The City may also consider financing improvements to the storm drain system in the Downtown Strategy 2040 area through the payment of special taxes or connection fees by development (GP Policy IP-15.2).

- Future projects will be required to implement and maintain BMPs that facilitate the infiltration of water into the ground surface, reduce the rate and volume of runoff to the storm drain system, and minimize pollution in runoff, in accordance with the MRP and City policies.

Consistent with the Downtown Strategy 2040 FEIR, the proposed project would construct storm drain systems to City standards and reduce the rate and volume of runoff. The project proposes to construct two new curb inlet catch basins along North Almaden Boulevard that would connect to the existing 36-inch storm drain line in the street. In addition, the project would construct a 12-inch storm drain lateral that connects the proposed on-site stormwater media filter vault to a new manhole on the existing storm drain line in North Almaden Boulevard. Stormwater runoff generated on-site by the project would be treated with the media filter vault prior to being conveyed to the new manhole in the street. The utility plan for the proposed project would be subject to review and approval by the Public Works Department prior to permit issuance.

As previously indicated, the proposed project is not located within a Special Flood Hazard Area that is subject to inundation by the 100-year flood (Zone X – Other Flood Areas). The project does not propose the alteration of the course of a stream or a river, actions which could potentially increase the risk of flooding on- or off-site. Standard measures would be applied that will lower the rate and volume of stormwater runoff from the site to further reduce the risk of potential flood events. Due to the scope of the proposed project and the proposed utility improvements, impacts resulting from drainage pattern alteration, increased risk of flooding, and/or an exceedance of the capacity of the existing storm drain system would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is not located within a Special Flood Hazard Area as delineated by FEMA. Neither housing nor structures will be placed in a 100-year flood hazard area. The project site is located in Flood Zone X, which indicates flooding depths of one foot or less in the event of a 100-year flood.

The project site is not located adjacent to any large bodies of water (i.e., the San Francisco Bay), nor is the project located within a designated tsunami inundation zone. The site is located on relatively flat terrain within the downtown area of San José, and there are no nearby hillsides or steep

⁶⁴ Outfalls that must be replaced will require permits from the Army Corps of Engineers, the California Regional Water Quality Control Board and the California Department of Fish and Game and other public agencies.

embankments that could present a mudflow hazard. Further, the proposed project would not store, handle, or transport large quantities of hazardous materials. Therefore, the proposed project would not risk the release of pollutants due to project inundation. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara and Llagas subbasins in 2016, describing its comprehensive groundwater management framework including objectives and strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within, or adjacent to, a Valley Water groundwater recharge pond or facility.⁶⁵ Implementation of the proposed project would not interfere with any actions set forth by Valley Water in its GMP regarding groundwater recharge, transport of groundwater, and/or groundwater quality. Therefore, the proposed project would not preclude implementation of the GMP.

The RWQCB updates its Basin Plan triennially to reflect current conditions and track progress towards meeting water quality objectives. The proposed development would comply with the MRP, and City policies and code regarding stormwater runoff and water quality. By adhering to these policies and regulations the proposed project would not prevent the RWQCB from attaining the water quality objectives set forth in the Basin Plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁶⁵ SCVWD. 2016 *Groundwater Management Plan*. Figure 1-3. 2016.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigation impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City’s General Plan, including the following:

Envision San José 2040 Relevant Land Use Policies

Policies	Description
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.
LU-17.2	Apply strong architectural, site, and grading design controls through a discretionary development review process to all types of hillside and rural residential development that require significant grading activities in order to protect the hillsides and to minimize potential adverse visual and environmental impacts.
LU-9.4	Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.4	Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

San José Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

Airport Plans and Regulations

The Norman Y. Mineta San José International Airport is owned and operated by the City of San José. It is regulated by various federal, state, and local laws, including the Code of Federal Aviation Regulations. Part 77 of the Federal Aviation Regulations (FAR) regulate obstructions to navigable airspace, as described in Section 4.9 Hazards and Hazardous Materials of this IS/Addendum. The project site is located within the AIA established by the Santa Clara County ALUC in its CLUP for the airport.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed in Section 4.4 Biological Resources of this IS/Addendum, the Habitat Plan is a county-wide conservation plan intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in Santa Clara County.

4.11.1.2 Existing Conditions

The project site located in an area known as the Downtown Core area. It has a General Plan land use designation of DT Downtown and is currently zoned DC Downtown Primary Commercial District. All the adjacent and surrounding properties in the neighborhood have these same General Plan and zoning designations. Existing land uses in the area include a mix of commercial, office, residential and mixed-use residential. Restaurants, bars and hotel uses comprise the majority of the commercial uses in the area, with parking garages located throughout the area.

The DT Downtown land use designation includes office, retail, service, residential, and entertainment uses in the downtown. As discussed in the General Plan, redevelopment in this area should be at very high intensities, unless incompatibility with relevant policies in the General Plan determines otherwise. Development within this designation should support pedestrian and bicycle circulation and increase transit ridership. Residential projects within this designation should incorporate ground-floor commercial uses, and mixed-use commercial and residential projects are encouraged. The General Plan sets a density limit of up to 800 du/ac for this designation.

The project site is located within the boundaries of the Airport Influence Area. As such, it would be subject to review for consistency with the Airport Land Use Plan by the Airport Land Use Commission.

4.11.2 Impact Discussion

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

a) **Would the project physically divide an established community?**

The project proposes the demolition of an existing single-story commercial building and construction of a 21-story mixed-use commercial and residential building with three levels of garage parking. The project proposes no subdivision of existing land for future development, or the construction of dividing infrastructure such as highways, freeways, or major arterial streets. The project would be consistent with adjacent residential mixed-use high-rise buildings. Pedestrian and bicycle access to nearby commercial areas and transit will not be removed or restricted by the proposed development. Therefore, implementation of the proposed project would not significantly impact an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

General Plan Land Use Designation and Zoning

The project site's designation of DT Downtown is intended to allow for residential, office, service, retail, and entertainment uses. High density mixed-use buildings (up to 800 du/ac) for commercial and residential purposes are encouraged within this designation. The proposed project is a mixed-use commercial and residential development with a gross residential density of 435 du/ac and would be consistent with the current land use designation.

The project site is zoned DC Downtown Primary Commercial District. Permitted uses within this zoning district include residential multiple dwelling units, office/business/administrative uses, accessory buildings and structures, and off-street/off-site parking arrangements (City of San José Zoning Ordinance, Table 20-140). Properties located within the downtown zoning districts are only subject to the height limitations necessary for the safe operation of San José International Airport. As such, the project's proposed building height of approximately 249 feet, six inches conforms to

this requirement because it is below the FAA’s maximum building height limit of 330 feet. The scope of the proposed project is consistent with the permitted uses established under the current zoning, which include residential, office, and retail uses. The project’s site design and layout would be consistent with the development standards of the current zoning district and the final design of the project would be subject to the City’s design review process to ensure compliance with applicable design guidelines. The project would not require a General Plan amendment or rezoning to accommodate it. Therefore, the proposed project would not result in an environmental impact due to conflict with the General Plan or Zoning Code. **[Same Impact as Approved Project (Less than Significant Impact)]**

Compatibility with Airport Operations

The Norman Y. Mineta San José International Airport is located approximately 1.5 miles north of the project site. The project site is located within the AIA as defined by the Santa Clara County ALUC. See Section 4.9 Hazards and Hazardous Materials for a discussion of project compliance with FAA regulations and General Plan policies regarding aircraft safety.

The ALUP includes noise exposure contours of 75, 70, 65, and 60 dB CNEL for the Norman Y. Mineta San José International Airport based on forecasted airport operations and the extent to which they would affect the areas surrounding the airport. Development within these contours is evaluated for compatibility with acceptable noise levels established by the City of 45 CNEL for interior noise quality, 55 CNEL for long-range exterior noise quality, and a maximum exterior level limit of 60 CNEL for residences, hotels, motels, retail and business areas, parks and playgrounds. The proposed project is located within the 65 to 70 dBA CNEL aircraft noise contours.⁶⁶

The proposed project would comply with height and noise regulations and policies pursuant to the 2040 General Plan and the ALUP. A FAA issuance of “no hazard” determination would be required prior to project approval due to the project’s maximum proposed height of 249 feet, six inches. The proposed commercial uses proposed by the project are considered compatible within the project’s 65 to 70 dBA CNEL aircraft noise environment, however, for condominium and multi-family residential uses, the policies state that new construction requires a detailed analysis of the noise reduction requirements, and that needed noise insulation features must be included in the design. Outdoor areas within this noise environment are likely to be adversely affected and recommended noise insulation features are discussed in Section 4.13 Noise and Vibration.

The project would be required to comply with FAA “no hazard” clearance requirements, as well as with the CLUP height and safety policies (see Section 4.9 Hazards and Hazardous Materials). The project would also be required to dedicate an aviation easement to the City as a condition of approval in compliance with CLUP and General Plan policies. Thus, the proposed project would not result in a significant impact due to conflict with airport operations as outlined in the CLUP. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁶⁶ Mineta San José International Airport. “2027 CNEL Contours”. Accessed October 23, 2019. <https://www.flysanjose.com/node/2206>

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The proposed project is located within *Urban/Suburban* land as designated by the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan.⁶⁷ The proposed project is not located in any fee zone or within or adjacent to any plant or wildlife survey area, however it is considered a covered activity under the SCVHP. Covered activities in the SCVHP are subject to certain conditions (as identified in Chapter 6 of the Plan) based on the project's location and type of project.

Implementation of the Standard Permit Conditions discussed in Section 4.4 Biological Resources would ensure that the project is consistent with the SCVHP. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁶⁷ Santa Clara Valle Habitat Agency. "Geobrowser". Accessed November 27, 2019. <http://www.hcpmaps.com/habitat/>.

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Existing Conditions*

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

4.12.2 Impact Discussion

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

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

The proposed project site is not located in an area of San José that is known to contain mineral resources. Implementation of the project would not result in the loss of availability of locally important mineral resources. **[Same Impact as Approved Project (No Impact)]**

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

Neither the Downtown Strategy 2040 nor the Envision San José 2040 General Plan identify mineral resource recovery sites that are located within the downtown area of the City. Consistent with the findings of the Downtown Strategy 2040 FEIR, the proposed project would not impact mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

The discussion in this section is based in part on the Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. on March 13, 2020. This report is included as an attachment to this IS/Addendum as Appendix D.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and 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. 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 generally expressed using one of several noise averaging methods, including L_{eq} , DNL, or CNEL.⁶⁸ These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times 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.

Vibration

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. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

⁶⁸ 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 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq} .

4.13.1.2 Regulatory Framework

State

State Building Code

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL⁶⁹ in any habitable room.

Local

Envision San José 2040 General Plan

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

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

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

⁶⁹ DNL (or Ldn) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

Table 4.13-1: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
 Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.						
 Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.						
 Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.						

Envision San José 2040 Relevant Noise Policies

Policies	Description
EC-1.1	<p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <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 (refer to Table EC-1 in the General Plan or Table 4.13-1 in this Initial Study). Residential uses are considered “normally acceptable” with exterior noise exposures of up to 60 dBA DNL and “conditionally compatible” where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study) 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.

- EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to uses through noise standards in the City’s Municipal Code.
- EC-1.6 Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.
- EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:
- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.
- For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
- 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 25 feet of any buildings, and within 100 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 100 feet may be reduced to 50 feet 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.

Municipal Code – Construction Standards

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

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.

4.13.1.3 Existing Conditions

Noise levels in the project area are primarily influenced by vehicular traffic on SR 87. Secondary noise sources include local traffic along surrounding roadways and intermittent airplane flyovers associated with the Norman Y. Mineta San José International Airport.

A noise monitoring survey was completed in the project vicinity to characterize existing noise levels. The survey consisted of one long-term noise measurement (shown as LT-1 on Figure 4.13-1) and four short-term noise measurements (ST-1 through ST-4 on Figure 4.13-1).

A summary of short-term noise measurement data is shown in Table 4.13-2 below.

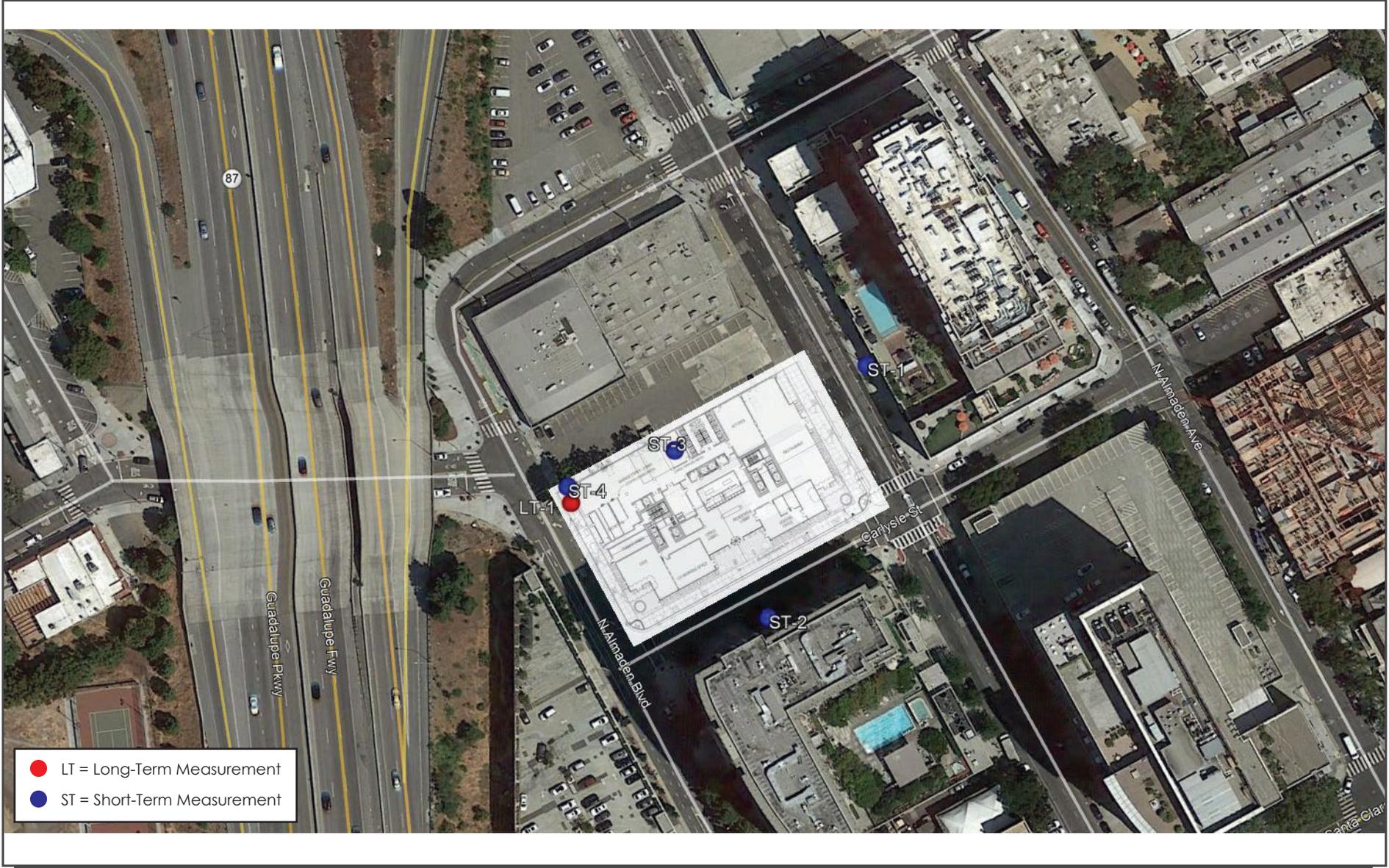
Noise Measurement Location	Date, Time	Height	L_{max}	L₍₁₎	L₍₁₀₎	L₍₅₀₎	L₍₉₀₎	L_{eq(10-min)}
ST-1: Along Notre Dame Avenue	2/4/2020, 11:30-11:40	5 feet	82	77	71	66	63	68
ST-2: Along Carlyle Street	2/4/2020, 11:50-12:00	5 feet	78	75	67	64	62	66
ST-3: Center of project site	2/4/2020, 12:10-12:20	5 feet	69	68	66	64	63	65
ST-4: Along North Almaden Boulevard	2/6/2020, 11:10-11:20	5 feet	82	80	73	67	65	70
		24 feet	87	81	74	71	69	73
LT-1 ^a : Along North Almaden Boulevard		15 feet	85	81	74	69	67	72

Noise measurement ST-1 was selected to quantify ambient noise levels at the existing mixed-use building to the east of the project site. The primary noise source at this location was SR 87, with noise levels ranging from 61 to 65 dBA. Traffic along Notre Dame Avenue generated the majority of local roadway noise at this location, with noise levels ranging from 68 to 74 dBA.

Noise measurement ST-2 was selected to quantify ambient noise levels at the existing mixed-use building to the south of the project site. The primary noise source at this location was SR 87, with noise levels ranging from 60 to 65 dBA. Traffic along Carlyle Street generated noise levels ranging from 65 to 69 dBA.

Noise measurement ST-3 was made in the center of the project site. Traffic along SR 87 was the primary noise source at this location, with noise levels ranging from 62 to 67 dBA. Local roadway noise was audible but generally did not contribute to the noise levels produced by SR 87.

SR 87 is elevated in the vicinity of the project site; to account for noise exposures at different heights adjacent to the freeway, ST-4 was made at two different heights (five feet above ground level and 24 feet above ground level). Long-term measurements (LT-1) were also made at this location at 15 feet above ground level.



NOISE MEASUREMENT LOCATIONS

FIGURE 4.13-1

4.13.2 Impact Discussion

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

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

The CEQA Guidelines state that a project would have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis; however, CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

a) 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?

Construction Noise

Construction of the project is anticipated to occur over a period of 25 months. Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the proposed project would involve demolition of existing structure and pavement, site preparation, grading and excavation, trenching (including vibratory pile

driving), paving, and building construction which would temporarily increase noise levels in the immediate vicinity of the site.

The ambient noise environment at the noise-sensitive receptors to the east and south of the project site would be represented by ST-1 and ST-2, respectively. During daytime hours, ST-1 was measured at 68 dBA L_{eq} , while ST-2 was 66 dBA L_{eq} . Noise levels at the existing commercial office building opposite the Carlyle Street/Notre Dame Avenue intersection were also represented by ST-1 and ST-2. The existing commercial uses along North Almaden Boulevard would be represented by LT-1 and ST-4, which ranged from 67 to 73 dBA L_{eq} . The proposed project would result in temporary increase in noise levels at nearby sensitive receptors due to construction. The estimated construction noise levels at nearby land uses are summarized below in Table 4.13-3.

Phase of Construction	Time Duration	Construction Equipment (Quantity)	Calculated Hourly Average Noise Levels, L_{eq} (dBA)				
			East Res. (185ft)	South Res. (135ft)	North Comm (70ft)	South west Comm (220ft)	Southeast Comm (230ft)
Demolition/ Site Preparation	1/4/2021 - 1/8/2021	Concrete/Industrial Saw (1) Excavator (1) Rubber-Tired Dozer (1) Tractor/Loader/B ackhoe (2)	76 dBA	78 dBA	84 dBA	74 dBA	74 dBA
Shoring/ Grading/ Excavation	1/11/2021 - 2/5/2021	Excavator (1) Rubber-Tired Dozer (1) Tractor/Loader/B ackhoe (3) Shoring Pile Rig (1)	75-83 dBA ^a	78-86 dBA ^a	83-91 dBA ^a	73-82 dBA ^a	73-81 dBA ^a
Below Slab Utilities	2/8/2021 - 2/19/2021	Tractor/Loader/B ackhoe (2)	72 dBA	74 dBA	80 dBA	70 dBA	70 dBA
Foundation/ Structure	2/22/2021 - 3/18/2022	Tractor/Loader/B ackhoe (2) Concrete Pump (2)	73 dBA	75 dBA	81 dBA	71 dBA	71 dBA
Building Exterior	10/4/2021 - 8/8/2022	Crane (1) Forklift (4) Welder (4)	68-74 dBA ^b	71-77 dBA ^b	76-82 dBA ^b	66-72 dBA ^b	66-72 dBA ^b
Building Interior/ Architectural Coating	5/17/2021 - 2/3/2023	Air Compressor (2) Aerial Lift (4)	67-75 dBA ^c	70-78 dBA ^c	76-83 dBA ^c	66-73 dBA ^c	65-73 dBA ^c
^a Range of hourly average noise levels reflects the equipment in the Shoring/Grading/Excavation phase with and without the shoring pile rig. ^b Range of hourly average noise levels reflects the Building Exterior phase only and in combination with the Foundation/Structure phase.							

Table 4.13-3: Estimated Construction Noise Levels at Nearby Land Uses					
Phase of Construction	Time Duration	Construction Equipment (Quantity)	Calculated Hourly Average Noise Levels, L_{eq} (dBA)		
			East Res. (185ft)	South Res. (135ft)	North Comm (70ft)
° Range of hourly average noise levels reflects the Building Interior/Architectural Coating phase only and in combination with the Building Exterior and Foundation/Structure phases.					

As shown in Table 4.13-3, ambient noise levels at surrounding land uses would be exceeded by five dBA L_{eq} or more during construction. Since project construction would last for a period of more than one year and construction would occur within 500 feet of existing residential uses and within 200 feet of existing commercial uses, construction noise impacts would be significant.

Impact NOI-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses.

The Downtown Strategy 2040 FEIR identified mitigation measures which would be applied to all future development projects within the downtown area to reduce construction noise impacts.

Mitigation Measures: Consistent with the 2040 General Plan (particularly General Plan Policy EC-1.7), the Downtown Strategy 2040, the Municipal Code, and in accordance with the Downtown Strategy 2040 FEIR, the proposed project would implement measures during all phases of construction on-site. The language of the measures has been revised for clarity, but the intent and purpose of the measures are consistent with the certified Downtown Strategy 2040 FEIR.

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director’s designee prior to the issuance of any grading or demolition permits.

As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

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

500 feet of a residence (San José Municipal Code Section 20.100.450).

- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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.

- 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 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.

With implementation of the measures above, the proposed project would not result in new or more construction noise impacts beyond those identified in the certified Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operational Noise

Project Traffic

According to General Plan Policy EC-1.2, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by three dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise levels increase of five dBA DNL or more would be considered significant. The "normally acceptable" outdoor noise levels standard for nearby residential land uses would be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if project-generated traffic would permanently increase ambient levels by three dBA DNL. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

The traffic study (Appendix E1) included peak hour turning movements for existing and exiting plus project traffic volumes at six intersections in the site vicinity. By comparing existing and existing plus project scenarios, the project's contribution to the overall noise level increase was determined to be two dBA DNL or less along each roadway segment in the project vicinity. Therefore, the project would not result in a permanent increase of three dBA DNL or more at noise-sensitive receptors in the area. **[Same Impact as Approved Project (Less than Significant Impact)]**

Mechanical Equipment

Under the City's Noise Element, noise levels from nonresidential building equipment shall not exceed a noise level of 55 dBA DNL at noise-sensitive land uses. Noise-sensitive receptors surrounding the project site would include existing residences to the east, opposite Notre Dame Avenue, and to the south, opposite Carlisle Street. Additionally, the Municipal Code states that noise levels generated from building equipment shall not exceed 60 dBA DNL at nearby commercial properties. Nearby commercial properties are located to the north, southwest, and southeast of the project site.

The project site plan shows a boiler room, a chiller room, electrical rooms, and an emergency generator room on the basement level; a transformer room on the ground level; and mechanical

rooms on the 21st floor, which includes the cooling tower open on the roof level. At the time of preparation of the noise study, the specific mechanical equipment had not been selected and equipment details were not available.

The equipment rooms located on the basement level would be underground and well-shielded from the surrounding noise-sensitive receptors. Noise from mechanical equipment units on the basement level would not generate noise levels exceeding 55 dBA DNL at the residences to the east or the south, nor would noise levels exceed 60 dBA DNL at the commercial uses to the north, southwest, or southeast. The ground-level transformer room, which would be located along the western building façade, would provide at least a 20 dBA reduction due to the room enclosure. Typical transformers generate noise levels up to 64 dBA. Assuming the transformer runs continuously, it would generate noise levels of 50 dBA DNL (including the reduction from room enclosure) at a distance of approximately three feet. At nearby property lines, noise levels from the ground-level transformer would be below 50 dBA DNL. The mechanical equipment rooms on the 21st floor would also provide at least 20 dBA reduction. Specific mechanical equipment for these rooms has not been selected; however, assuming pool maintenance equipment, heating pumps, or HVAC systems are located there, noise levels would range from 56 to 66 dBA at a distance of three feet. The nearest residential building is a high-rise of at least 18 stories. The nearest residential property plane would be approximately 115 feet east of the nearest mechanical room within the proposed building. At this distance, the noise levels at the nearest residential receptors would be well below 50 dBA DNL. The cooling tower, which would be exposed on the roof level, would be located along the northern façade. The noise study conservatively analyzed up to five chillers, which would collectively generate noise levels of 56 dBA at 210 feet. The eastern building façade of the proposed building would provide an approximately 20 dBA reduction in noise levels. Assuming 24-hour operation of the chillers and noise reduction provided by the building façade, the nearest residential property plane (approximately 115 feet to the east) would be exposed to noise levels of less than 50 dBA DNL.

As described above, mechanical equipment noise levels are not anticipated to exceed the General Plan threshold of 55 dBA DNL at noise-sensitive land uses in the site vicinity. Therefore, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Truck Loading and Unloading

The project site plan shows two loading spaces towards the northwestern corner of the project site, within the proposed building. The loading spaces would be accessed through the entrance to the ramp of the parking structure. Therefore, noise due to loading and unloading activities would be shielded from nearby sensitive receptors. Assuming these deliveries and on-site maintenance activities would occur during daytime hours between 7:00 a.m. and 10:00 p.m., a noise increase above existing conditions is not expected. Further, these trucks would access the project site from North Almaden Boulevard, which currently includes truck traffic. Truck deliveries would not generate levels exceed 55 dBA DNL or existing ambient conditions at nearby sensitive receptors; therefore, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

The construction of the project may generate perceptible vibration when heavy equipment or impact tools are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. Vibratory pile driving equipment, which can cause excessive vibration, is expected to be required for the proposed project.

According to General Plan Policy EC-2.3, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction.

Table 4.13-4 presents the typical vibration levels for construction equipment to be used by the project (at a distance of 25 feet), as well as the minimum distance to meet the 0.08 in/sec PPV threshold for historical buildings and the 0.2 in/sec PPV threshold for all other buildings.

Equipment		PPV at 25 ft. (in/sec)	Minimum Distance to Meet 0.08 in/sec PPV (feet)	Minimum Distance to Meet 0.2 in/sec PPV (feet)
Pile Driver (Sonic)	Upper range	0.734	190	82
	Typical	0.170	50	22
Clam shovel drop		0.202	58	26
Hydromill (slurry wall)	in soil	0.008	3	1
	in rock	0.017	6	2
Vibratory Roller		0.210	60	27
Hoe Ram		0.089	28	12
Large bulldozer		0.089	28	12
Caisson drilling		0.089	28	12
Loaded trucks		0.076	24	10
Jackhammer		0.035	12	5
Small bulldozer		0.003	1	<1

Based on the HRI for the City of San José, there several historical buildings in the vicinity of the project. As shown in Table 4.13-4, the minimum distance from the project site at which historical buildings could be affected by construction is 190 feet. The only historic structure within that distance is the commercial building adjoining the site to the north. The nearest building façade for this structure would be approximately 60 feet from the northern boundary of the project site. At this distance, vibration levels would range from 0.001 to 0.280 in/sec PPV; thus, construction of the project would exceed the City’s 0.08 in/sec PPV vibration threshold for historic structures.

The estimated vibration levels at surrounding land uses, and their respective distances from the project site, are shown in Table 4.13-5.

Table 4.13-5: Vibration Levels at Surrounding Land Uses							
Equipment		PPV (in/sec)					
		East Res. (65ft)	South Res. (50ft)	North Historical Building (60ft)	North Comm. (10ft)	Southwest Comm. (50ft)	Southeast Comm. (85ft)
Pile Driver (Sonic)	Upper range	0.257	0.342	0.280	2.011	0.342	0.191
	Typical	0.059	0.079	0.065	0.466	0.079	0.044
Clam shovel drop		0.071	0.094	0.077	0.553	0.094	0.053
Hydromill (slurry wall)	in soil	0.003	0.004	0.003	0.022	0.004	0.002
	in rock	0.006	0.008	0.006	0.047	0.008	0.004
Vibratory Roller		0.073	0.098	0.080	0.575	0.098	0.055
Hoe Ram		0.031	0.042	0.034	0.244	0.042	0.023
Large bulldozer		0.031	0.042	0.034	0.244	0.042	0.023
Caisson drilling		0.031	0.042	0.034	0.244	0.042	0.023
Loaded trucks		0.027	0.035	0.029	0.208	0.035	0.020
Jackhammer		0.012	0.016	0.013	0.013	0.016	0.009
Small bulldozer		0.001	0.001	0.001	0.001	0.001	0.0008
Notes: Bold denotes an exceedance of either the 0.08 in/sec PPV threshold (for historical buildings) or 0.2 in/sec PPV for normal buildings.							

As seen in Table 4.13-5 above, construction vibration levels would exceed the threshold of 0.08 in/sec PPV at the historical building to the north and the threshold of 0.2 in/sec PPV at other nearby commercial and residential buildings. This would constitute a significant impact.

Impact NOI-2: Construction vibration levels could adversely affect nearby structures.

Mitigation Measures: The Downtown Strategy 2040 FEIR recognized that construction vibration for future projects in downtown could exceed these thresholds and included mandatory measures to be implemented by future projects to reduce vibration impacts. The following measures (as modified to reflect site-specific conditions) shall be implemented by the project to reduce construction vibration impacts.

MM NOI-2.1: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is

known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.

Demolition, earth-moving, and ground impacting operations shall be phased so as not to occur during the same time period.

- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
- Document conditions at all structures located within 125 feet of construction and at historic structures located within 200 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:
 - Vibration limits should be applied to all historic and/or vibration-sensitive structures located within 200 feet of any pile driving activities and 75 feet of other construction activities identified as sources of high vibration levels.
 - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 125 feet of pile driving activities and/or within 30 feet of other construction activities identified as sources of high vibration levels and each historic structure within 200 feet of pile driving activities and/or within 75 feet of other construction activities. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.

- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

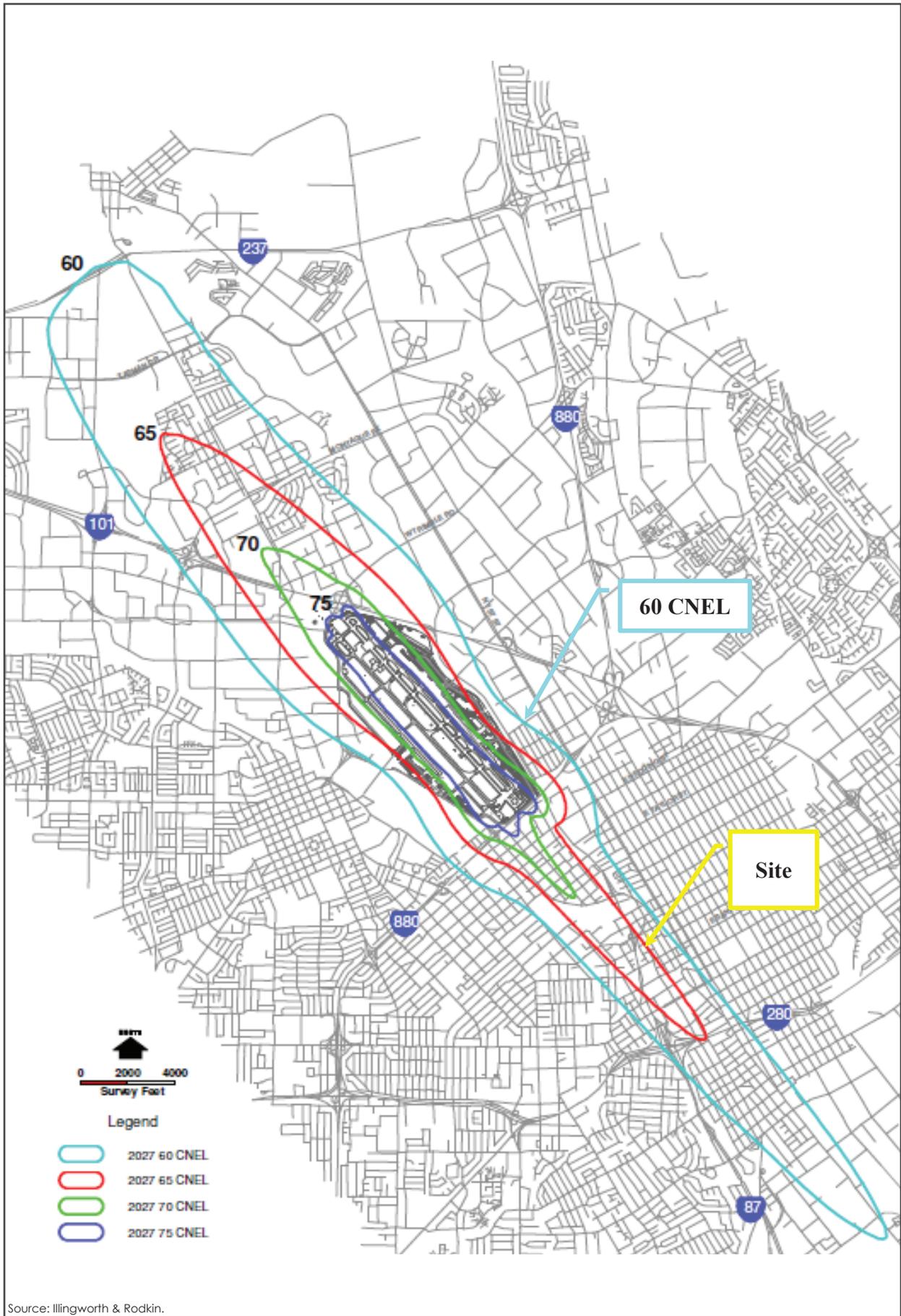
The construction vibration plan shall be submitted to the Director of Planning or Director’s designee prior to the issuance of any demolition permits and grading permits. The associated monitoring reports shall be submitted after substantial completion of each phase identified in the project schedule to the Director of Planning, Building, and Code Enforcement or Director’s designee. An explanation of all events that exceeded vibration limits shall be included together with proper documentation of any exceedance event.

With implementation of the mitigation measures described above, the proposed project would not generate excessive groundborne vibration or groundborne noise levels. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would result in a less than significant vibration impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Norman Y. Mineta San José International Airport is located approximately 1.5 miles northwest of the project site. The project site is located within the City’s projected 65-70 dBA CNEL aircraft noise impact area. According to General Plan Policy EC-1.11, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL for aircrafts. As described in the noise report, and shown on Figure 4.13-2, the project site lies nearly coincident with the 65dB CNEL noise contour for the airport. It is reasonable to expect, therefore, that the project would not be exposed to aircraft noise levels exceeding the safe and compatible threshold.

For interior noise levels, the acceptable threshold for residential uses is 45 dBA CNEL. The project’s compatibility with existing noise levels, including aircraft noise, is discussed below in Section 4.13.3 and recommendations are included to ensure the proposed uses are compatible with the existing noise environment. Therefore, the project would not expose people residing or working in the project area to excessive noise levels. **[Same Impact as Approved Project (Less than Significant Impact)]**



SAN JOSE INTERNATIONAL AIRPORT NOISE CONTOURS

FIGURE 4.13-2

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 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 noise conditions affecting a proposed project.

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

Exterior Noise

The City's acceptable exterior noise level standard is 60 dBA DNL or less for residential land uses and 70 dBA DNL for commercial land uses (General Plan Policy EC-1.1). The future noise environment at the project site would continue to result primarily from vehicular traffic along SR 87. Using cumulative 2040 peak hour traffic volumes for SR 87 included in the Downtown Strategy 2040 EIR, a traffic noise increase of one dBA DNL was estimated along SR 87. This noise level increase was added to the ambient noise measurements made at the site to represent the worst-case scenario under future build out conditions. Therefore, future noise levels are estimated to be up to 73 dBA DNL along the western boundary of the site at a height of 15 feet above the ground and up to 74 dBA DNL at a height of 24 feet above the ground. The consistency of the different project components with the City's acceptable exterior noise level standards is discussed below.

Residential Land Uses

A common use residential terrace would be provided on the 10th floor and an outdoor pool area and lounge would be provided on the roof level. The 10th floor terrace would be set back approximately 285 feet from the centerline of the nearest lane of SR 87 and elevated 128 feet above the ground. Assuming partial shielding from the building, the exterior noise levels at the center of this outdoor use area would be 66 dBA DNL, with future noise levels reaching up to 70 dBA DNL at the edge of the terrace. The future noise levels would exceed the City's normally acceptable threshold of 60 dBA DNL by six dBA DNL. The noise levels at this outdoor area would be within the City's conditionally acceptable range, and therefore, the City could allow this outdoor use space without additional noise-reducing measures. Assuming this would not be permitted, the 10th floor terrace would require measures to reduce exterior noise levels to at or below 60 dBA DNL.

The rooftop pool and lounge areas would be located along the western building façade, approximately 234 feet above the ground. The outdoor areas would be setback from the centerline of the nearest lane of SR 87 by 170 to 220 feet. Assuming partial shielding due to the elevation of the outdoor areas, the future exterior noise levels at this location would range from at or below 60 dBA DNL at five feet from the western edge to 70 dBA DNL along the western edge. Since most of the extended use would occur towards the center of the pool and lounge areas, the future noise levels would meet the City's normally acceptable threshold of 60 dBA DNL and would not require further noise control.

Commercial Land Uses

The proposed building includes office terraces on the fifth and sixth floors. Both terraces are located along the northern building façade, to the north of the residential terrace on the 10th floor. The centers of the fifth and sixth floor terraces would be set back from the center line of the nearest lane along SR 87 by approximately 275 feet each. At this distance, the future exterior noise levels at the center of these terraces would range from 71 to 72 dBA DNL, depending on the elevation. This would exceed the City's exterior noise threshold for commercial uses by up to two dBA DNL. Future exterior noise levels at commercial land uses would fall within the City's conditionally acceptable range; the City could allow these outdoor use spaces without noise-reducing measures. Assuming this would not be permitted, the fifth and sixth floor terraces would require measures to reduce exterior noise levels to at or below 70 dBA DNL.

Recommended Measures to Reduce Exterior Noise Levels

To reduce exterior noise levels to acceptable ranges for the residential and commercial uses proposed, the project could include site planning alternatives, the construction of noise barriers, or a combination of the above. Each terrace could be relocated to the eastern building façade, away from SR 87. This would reduce future exterior noise levels to normally acceptable levels. The project could also be redesigned so that the building completely surrounds each of the terraces. Assuming these options would not be feasible, the recommended measure for noise reduction would be to construct a sound wall or barrier capable of reducing noise levels by up to two dBA at the commercial terraces and up to six dBA at residential terraces.

Interior Noise

Residential Land Uses

The City's acceptable interior noise level standard is 45 dBA DNL for residential land uses. Residential units are located on floors 10 through 21 of the proposed building. Units located along the western façade nearest to SR 87 would be set back from the centerline of the nearest through lane by 170 to 220 feet. At these distances, the units facing SR 87 would be exposed to future exterior noise levels ranging from 70 to 74 dBA DNL. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction with the windows partially open; with the windows closed, approximately 20 to 25 dBA of noise reduction is provided. With the windows partially open, the units facing SR 87 would have interior noise levels ranging from 55 to 59 dBA DNL.

Units along the northern façade would have direct line-of-sight to SR 87, with setbacks from the centerline of the nearest through lane ranging from 170 to 375 feet. At these distances, exterior noise levels would range from 65 to 74 dBA DNL. With the windows partially open, these units would have interior noise levels ranging from 65 to 74 dBA DNL. Units located along the southern building façade would be exposed to future noise levels ranging from 62 to 74 dBA DNL. Assuming windows to be partially open, future interior noise levels would range from 47 to 59 dBA DNL. Units located along the eastern building façade would be exposed to noise levels ranging from below 60 to 65 dBA DNL. Assuming windows to be partially open, future interior noise levels would range from below 45 to 50 dBA DNL.

To meet the interior noise requirements set forth by the City of San José for residential land uses (45 dBA DNL), implementation of noise insulation features would be required. The following noise insulation features shall be incorporated into the proposed project as conditions of approval to reduce interior noise levels to 45 dBA DNL or less.

Conditions of Approval:

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- Preliminary calculations indicate that residential units nearest to SR 87 along the western façade would require windows and doors with a minimum rating of 35 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- Residential units located along the northern façade would require windows and doors with minimum STC ratings of 30 to 35 with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL. Units located along the southern façade would require windows and doors with minimum STC ratings of 28 to 35 with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the General Plan and State Building Code. The study will also establish appropriate criteria for noise levels inside the commercial spaces affected by environmental noise. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and to reduce commercial interior noise levels to 50 dBA $L_{eq(1-hr)}$ or less. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

The implementation of these noise insulation features would reduce interior noise levels to 45 dBA DNL or less at residential uses.

Commercial Land Uses

Ground-level commercial retail uses and commercial offices on floors five through nine are proposed as part of the project. Daytime hourly average noise levels at ground level would range from 68 to 72 dBA L_{eq} . On floors five through nine, the daytime hourly average noise levels would range from 69 to 73 dBA L_{eq} . Standard construction materials for commercial uses would provide approximately 25 dBA of noise reduction in interior spaces and forced-air mechanical ventilation would provide an

additional five dBA reduction. Commercial uses throughout the proposed building would meet acceptable noise levels and would not require additional insulation features.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

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. 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 regional housing need; 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 that is to be updated on a regular recurring basis.⁷⁰ The City of San José Housing Element and related land use policies were last updated in January of 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).⁷¹

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

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,043,058 in January 2019 with an average of 3.20 persons per household.⁷² The City had approximately 335,887 housing units as of January 1, 2019. The ABAG estimates that there will be an approximate City population of 1,377,145 and 448,310 households by the year 2040.⁷³

⁷⁰ California Department of Housing and Community Development. “Regional Housing Needs Allocation and Housing Elements” Accessed November 19, 2019. <http://hcd.ca.gov/community-development/housing-element/index.shtml>.

⁷¹ Association of Bay Area Governments and Metropolitan Transportation Commission. “Project Mapper.” Accessed November 19, 2019. <http://projectmapper.planbayarea.org/>.

⁷² State of California, Department of Finance. “E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2019.” Accessed November 19, 2019. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

⁷³ Association of Bay Area Governments. *Projections 2040*. November 2018.

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

The City currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040. To meet the current and projected housing needs in the City, the 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The total number of planned dwelling units in the downtown area is currently 10,360. The Downtown Strategy 2040 would increase planned residential development in the downtown area by 4,000 dwelling units for a total of 14,360 planned units. The total amount of planned units would support a population of approximately 40,926, of which 11,400 would be supported by the 4,000 unit increase.⁷⁴

The project site is developed with a single-story commercial building. No residential uses are provided on the site.

4.14.2 Impact Discussion

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

As discussed below, the proposed project would not result in a new or greater population and housing impact than was previously disclosed in the Downtown Strategy 2040 FEIR.

⁷⁴ City of San José. *San José Downtown Strategy 2040 EIR*. 2018.

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

Examples of ways in which a project can induce substantial population growth include:

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

The project proposes a 21-story commercial and residential building containing 290 dwelling units. The 290 dwelling units provided by the project would amount to approximately 928 new residents within the downtown area⁷⁵, a growth in downtown residential population that is expected and planned for by the Downtown Strategy 2040 and the 2040 General Plan. Citywide jobs and housing capacities would not exceed the levels established by the Downtown Strategy 2040 as a result of the proposed project. The project is an infill development which would utilize existing roads, transit, utilities, and public services to accommodate future residents. No new road extensions or other infrastructure would be established, nor would any obstacles to population growth be removed. For these reasons, the proposed project would not induce substantial unplanned population growth.

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

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

The General Plan FEIR, SEIR, and Addenda thereto determined that planned build out to 2040 would utilize existing commercial, industrial, and vacant areas within the City's Urban Growth Boundary to allow for increases in residential development. As such, there will be minimal reduction in housing within the scope of the General Plan and the Downtown Strategy 2040, and new housing developments in the downtown area would focus on an intensification of land use. The proposed project would follow the guidance of the Downtown Strategy 2040 in its utilization of an existing commercial space for conversion to a mixed-use residential and commercial building. No dwelling units would be lost as a result of the proposed project, and no people would be displaced. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁷⁵ Assuming an average of 3.20 residents per dwelling unit per the 2019 California Department of Finance estimates for San José.

4.15 PUBLIC SERVICES
4.15.1 Environmental Setting
4.15.1.1 *Regulatory Framework*

State

California Government Code Section 65996

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 payments 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 of school impact mitigation 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 Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to public services and are applicable to the proposed project.

Envision San José 2040 Relevant Public Service Policies

Policies	Description
FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: <ol style="list-style-type: none"> 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.11	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.
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 SF per 1,000 population of community center space.
PR-1.12	Regularly update and utilize San José’s Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.15.1.2 Existing Conditions

Fire Protection Services

Fire protection services in San José are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The SJFD protects 206 square miles and approximately 1.2 million residents in both City and county areas. There are 33 fire stations that service the residents of San José. The SJFD has established the goal of responding to Priority 1 incidents (emergencies) within eight minutes, 80 percent of the time, and Priority 2 incidents (non-emergencies) within 13 minutes, 80 percent of the time. For 2018-2019, the SJFD responded to 74 percent of Priority 1 incidents within eight minutes and 92 percent of Priority 2 incidents within 13 minutes.⁷⁶

The closest fire station to the project site is San José Fire Station 1, at 225 North Market Street, approximately 0.3 miles northeast of the site. According to Google Maps, the fire station is within seven minutes driving distance of the site.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 1.4 miles north of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division. The SJPD has established the goal of responding to Priority 1 calls (present or imminent danger to life or major damage to/loss of property) within six minutes, and responding to Priority 2 calls (involving injury or property damage, or the potential for either to occur) within 11 minutes. In 2018-2019, the citywide average response time for Priority 1 calls was 7.1 minutes, and the average response time for Priority 2 calls was 19.9 minutes.⁷⁷

Schools

The City of San José includes 22 public school districts that currently operate 222 public schools serving students in San José. The project site is located within the San José Unified School District (SJUSD). The school district operates 27 elementary schools, nine high schools and six middle schools. Enrollment in the SJUSD was slightly above capacity at the time of analysis in the General Plan FEIR, SEIR, and Addenda thereto.⁷⁸ The nearest SJUSD schools to the project site are Horace Mann Elementary School (0.8 miles east), Hoover Middle School (1.9 miles southeast), and Lincoln High School (2.5 miles west).

Based on Fall 2018/Spring 2019 student enrollment information for San Jose Unified School District, 402 students attend Horace Mann Elementary School and 1,082 students attend Hoover Middle School, and 1,805 students attend Lincoln High School.⁷⁹

⁷⁶ City of San José. *Annual Report on City Services 2018-2019*. December 2019. <http://www.sanJose.org/culture.org/DocumentCenter/View/81795>

⁷⁷ Ibid.

⁷⁸ City of San José. *Envision San José 2040 General Plan FEIR*. December 2011.

⁷⁹ California Department of Education. "DataQuest". Accessed October 25, 2019. <https://dq.cde.ca.gov/dataquest/>

Parks

The City of San José currently operates 197 neighborhood parks, 51 community centers, nine regional parks, and 61 miles of trails.⁸⁰ The City’s Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public parks to the project site are Guadalupe River Park (Arena Green East and West), located approximately ¼-mile west of the site, John McEnery Park, located approximately ¼-mile south of the site, and St. James Park, located approximately ¼-mile east of the site.

Library and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Dr. Martin Luther King, Jr. Library, approximately 1.2 miles east of the project site.

The City of San José operates 51 community centers within the City limits. The nearest community center to the site is the Grace Community Center, approximately 0.9 miles northeast of the site.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
<p>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:</p>				
a) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

As discussed below, the proposed project would not result in a new or greater public services impact than was previously disclosed in the Downtown Strategy 2040 FEIR.

⁸⁰ City of San Jose. *Fast Facts*. Accessed October 25, 2019. <http://www.sanjoseca.gov/DocumentCenter/View/65881>

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

The proposed project would result in a new mixed-use development on a parcel that is currently used for commercial purposes. The addition of 290 dwelling units would amount to an increase in population of approximately 928 persons, according to the average San José household size of 3.20 persons. This increase in population would incrementally increase the demand on fire protection services in the downtown area compared to existing conditions. While demand on fire services would be increased slightly, the project would still be consistent with the planned build out for the downtown area detailed in the General Plan and the Downtown Strategy 2040, and would not prevent the SJFD from meeting their service goals or require the construction of new or expanded fire facilities. The project would be constructed in accordance with the most recent California Building Code and would be required to be maintained in accordance with applicable City polices, including General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the proposed project would not result in a significant impact on fire services. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would marginally increase the demand for police protection services in the project area. The project would be consistent with the planned build out for the downtown area detailed in the General Plan and the Downtown Strategy 2040, and would not prevent the SJPD from meeting their service goals or require the construction of new or expanded police facilities. Implementation of the proposed project would not indirectly cause environmental impacts by requiring the construction or expansion of police protection services in the City. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

It can be reasonably expected that future residents of the proposed project could include elementary, middle, and high school students. The proposed project would increase the student population in the downtown area by approximately 69 students, according to the SJUSD student generation factors of 0.238 students per dwelling unit.⁸¹ Increasing the student population in the downtown area by 69

⁸¹ San José Unified School District. *Development Fee Justification Study*. April 2014.

students would not require the construction of new schools, however this increase would place a new demand on school facilities in the area. As such, the following standard permit condition will be applied to the project as a condition of approval:

Standard Permit Condition:

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project. The City of San José Building Division will review the square footage of the proposed project and issue a School Fees Form. Proof of payment to the impacted school district is required before issuance of building permits by the City.

The Downtown Strategy 2040 identified the need for expanded school facilities to accommodate expected growth within the downtown area. The downtown area is expected to generate 532 elementary school students (K-5), 284 middle school students (grades 6-8), and 248 high school students (grades 9-12).⁸² The increased number of students is accounted for in the General Plan FEIR, SEIR, and Addenda thereto. The City will provide all pertinent information on development proposals to affected school districts and integrate plans for school construction and/or renovation into the planning process for growth areas such as the downtown area.

Although residential development under the proposed project could generate new students in the area, the increase in students is expected and planned for in the Downtown Strategy 2040 FEIR and the General Plan 2040 EIR. The project would conform to Government Code Section 65996, which requires the project to pay school impact fees and is considered adequate mitigation for increased demands upon school facilities. Therefore, the proposed project would have a less than significant impact on school facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Existing parks in the vicinity of the project site would be used by residents of the proposed development. The use of existing recreational facilities would be increased incrementally by the proposed project. The residential portion of the project (290 units) is obligated to comply with the PIO and/or PDO. Consistent with these ordinances, the project is required to dedicate land, improve or provide new recreational amenities, and/or pay a park impact in lieu fee that is equal to providing three acres of land for every 1,000 persons added to the population as a result of the project (Quimby Act). The following standard permit condition will be implemented as a condition of approval for the project:

⁸² City of San José. *Downtown Strategy 2040 Draft Environmental Impact Report*. 2018.

Standard Permit Condition:

- The project applicant shall be required to dedicate land, pay a park impact fee in lieu of dedication, or both, for park and recreational purposes. Alternatively, the applicant may enter into a parkland agreement for the construction of park facilities, recreational facilities, or both to satisfy the requirements outlined in Section 14.25 of the Municipal Code. Fees generated from the proposed residential development would be used to provide neighborhood-serving facilities within a 0.75-mile radius of the project site and/or community-serving facilities within a three-mile radius (General Plan Policies PR-2.4 and PR-2.5).

Based on estimated occupancy of 3.20 persons per household in San José, the project would increase the population in downtown by 928 people. This increase in population could reasonably be expected to result in increased use of existing parks in the area, however, this increase in use would not substantially degrade the condition of existing public parks. Additionally, park impact fees, land dedication, and/or parkland improvements are required by the City’s PIO and PDO and are included as a condition of approval for this project. Therefore, the proposed project would not result in a significant impact by requiring expansion of existing facilities or construction of new facilities.

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

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

The proposed project would contribute to the expected growth of downtown San José as analyzed in the Downtown Strategy 2040 FEIR and the General Plan FEIR. The City has established a service level objective of providing at least 0.59 square feet of library space per capita. The anticipated population growth under the General Plan would result in approximately 0.68 square feet of library space per capita, which would exceed the service level goal of 0.59. The proposed project is consistent with the land use designation and zoning districts that were analyzed under the General Downtown Strategy 2040 FEIR and General Plan FEIR; therefore, the project would not require the construction of additional library facilities.

The proposed project is estimated to increase the population in the downtown area by 928 persons. Demand on nearby community centers may be incrementally increased; however, it is not expected that new or expanded facilities would be required to accommodate the population increase resulting from the proposed project. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State and Local

Quimby Act – California Code Sections 66475-66478

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

Envision San José 2040 General Plan Policies

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to recreational resources and are applicable to the proposed project:

Envision San José 2040 Relevant Recreation Policies

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 SF per 1,000 population of community center space.
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 and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¼ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (Such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.16.1.2 *Existing Conditions*

The City of San José owns and maintains over 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.⁸³ The City also manages 50 community centers, 17 community gardens, and six aquatic facilities. Other recreational facilities include seven public skate

⁸³ City of San José Parks, Recreation, and Neighborhood Services. *Building Community Through Fun 2016 Annual Report*. Available at: <https://www.sanjoseca.gov/index.aspx?NID=204>

parcs and 61 miles of interconnected trails.⁸⁴ The City’s Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The nearest public parks to the project site are Guadalupe River Park (Arena Green East and West), located approximately ¼-mile west of the site, John McEnery Park, located approximately ¼-mile south of the site, and St. James Park, located approximately ¼-mile east of the site.

4.16.2 Impact Discussion

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

As discussed below, the proposed project would not result in a new or greater recreation impact than was disclosed in the Downtown Strategy 2040 FEIR.

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

The proposed project would marginally increase the use of existing neighborhood and regional parks due to the establishment of new housing. The addition of 290 new residential units is estimated to increase the population in the Central/Downtown Planning Area by 928 persons. Residents of the proposed mixed-use development could reasonably be expected to utilize existing park and recreational facilities within the vicinity of the project site. Substantial physical deterioration of these facilities is not expected as a result of the increased use. As mentioned previously, the proposed project would be required to conform to Section 14.25 of the Municipal Code, which describes parkland dedications/in-lieu fees that new residential developments must contribute to the City. Fees collected from the PDO/PIO would serve existing park facilities within a 0.75-mile radius of the proposed project, or community centers within a three-mile radius, and would ensure that existing park facilities would not be degraded by the increased intensity in use. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁸⁴ City of San José. Parks, Recreation & Neighborhood Services website – *Fast Facts*. <http://www.sanjoseca.gov/documentcenter/view/65881>. Accessed November 27, 2019.

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

New recreational facilities are not included, or proposed, as a component of the project. No environmental impacts would result from the construction of additional recreational facilities to serve the proposed development. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The following discussion is based, in part, on a Local Transportation Analysis (LTA) prepared for the project by *Hexagon Transportation Consultants, Inc.* The LTA, dated March 2020, is included in this IS/Addendum as Appendix E1. The project also includes a TDM Plan, prepared by *Watry Design, Inc.* The TDM Plan, dated October 2019, is included in this IS/Addendum as Appendix E2.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

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 a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay—described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor’s Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions are required to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project’s VMT may be significant. Notably, projects located within 0.5 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county’s share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation

demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project’s transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita respectively. 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 VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact.

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

Envision San José 2040 General Plan

The following General Plan policies relate to the transportation impacts of the proposed project.

Envision San José 2040 Relevant Transportation Policies

Policies	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José’s mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.4	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. <ul style="list-style-type: none"> • Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San Jose 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.

Policies	Description
	<ul style="list-style-type: none"> • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An “area development policy” may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-5.3	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.
	Downtown. Downtown San Jose 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.
TR-7.1	Require large employers to develop and maintain TDM programs to reduce the vehicle trips and vehicle miles generated by their employees.
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
TR-8.12	As part of the entitlement process, consider opportunities to reduce the number of parking spaces through shared parking, TDM actions, and parking pricing or other measures which can reduce parking demand. Consider the use of reserve landscaped open space or recreational areas that can be used on a short-term basis to provide parking or converted to formal parking in the future if necessary.

4.17.1.2 Existing Conditions

Roadway Network

Regional Access

Regional access to the project site is provided by State Route (SR) 87, which is described below.

SR 87 is primarily a six-lane freeway (four mixed-flow lanes and two high-occupancy vehicle [HOV] lanes) that is aligned in a north-south orientation. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with U.S. 101. Connections from SR 87 to the project site are provided via a full interchange at Julian Street and a partial interchange at Santa Clara Street (ramp from the south). SR 87 provides access to I-280/I-680 and U.S. 101.

Local Access

Local access to the project site is provided by West Julian Street, St. John Street, Notre Dame Avenue, Santa Clara Street, Carlisle Street, and Almaden Boulevard. These roadways are described below.

West Julian Street is an east-west four-lane divided arterial near the project site that extends from The Alameda from the west to Terraine Street in the east, where it becomes St. James Street. Street parking is not allowed on West Julian Street in the project vicinity. From West Julian Street, the project site can be accessed via Almaden Boulevard or Terraine Street and West St. John Street.

West St. John Street is an east-west two-lane street near the project area that extends from Montgomery Street in the west, to First Street in the east. Immediately north of Almaden Boulevard, West St. John Street runs in a westbound direction only. Eastbound vehicles can only turn right onto Almaden Boulevard. In the project vicinity, West St. John Street is a designated bicycle route with parking on both sides. The project site can be accessed from West St. John Street via Almaden Boulevard.

Notre Dame Avenue is a one-way northbound two to three-lane arterial that runs along the project's east frontage. It extends between Santa Clara Street and West Julian Street and includes a bicycle lane between Santa Clara Street and West St. John Street. Notre Dame Avenue provides access to the project site via Almaden Boulevard, which can be accessed by both Carlisle Street and West St. John Street.

Santa Clara Street is an east-west four-lane arterial near the project site that extends from Stockton Avenue in the west, where it begins from The Alameda, to U.S. 101 in the east, where it becomes Alum Rock Avenue. Street parking is not allowed east of Notre Dame Avenue. There are bicycle lanes present west of Almaden Boulevard. From Santa Clara Street, the project site can be accessed via Notre Dame Avenue, Carlisle Street, and Almaden Boulevard.

Carlisle Street is an east-west two-lane street that runs along the project site's south frontage. It extends between Almaden Boulevard and Almaden Street. There is street parking along both sides of Carlisle Street. From Carlisle Street, the project site can be accessed via Almaden Boulevard.

Almaden Boulevard is a north-south two-lane arterial in the project vicinity that runs along the project site's west frontage. It is a one-way southbound street between West Julian Street and Santa Clara Street and transitions to a four-lane two-way street south of West Santa Clara Street. The northbound direction transitions to Notre Dame Avenue north of West Santa Clara Street. It extends between St. John Street and Grant Street, just south of I-280, and includes bicycle lanes along both sides of the street. Direct access to the project site would be provided via a two-way driveway along Almaden Boulevard.

Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks along all the surrounding streets, including the project frontages along Almaden Boulevard, Carlysle Street, and Notre Dame Avenue. Crosswalks and pedestrian signal heads are present on most legs of all signalized intersections within the project vicinity, including the intersections of Almaden Boulevard/Santa Clara Street and Notre Dame Avenue/Santa Clara Street. Crosswalks are present on most legs of all unsignalized intersections within the project vicinity, including the intersections of Almaden Boulevard/West St. John Street, Almaden Boulevard/Carlysle Street, Notre Dame Avenue/Carlysle Street, and Notre Dame Avenue/West St. John Street. Overall, the existing network provide good pedestrian connectivity and safe routes to transit, nearby pedestrian destinations, and other points of interest in the downtown area.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Class II bicycle facilities (striped bike lanes) are provided along Almaden Boulevard (along the west project site frontage) and Notre Dame Avenue (along the east project site frontage). Additional Class II bicycle facilities are provided along the following roadway within the project area:

- Santa Clara Street, west of Almaden Boulevard

Designated Class II bicycle routes with “sharrows” or shared-lane pavement markings and signage are provided along the following roadways:

- West St. John Street, between Autumn Street and First Street

The Guadalupe River multi-use trail system runs through the City of San Jose 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. This trail system can be accessed via trailheads on either St. John Street or Santa Clara Street, approximately 750 feet west of the project site.

Additionally, there are bicycle and scooter share programs which allow users to rent and return bicycles/scooters throughout the downtown area. A bike share station is located approximately 500 feet south of the project site, on the south side of Santa Clara Street. Existing bicycle facilities in the project area are shown on Figure 4.17-1 on the following page.



Source: Hexagon Transportation Consultants

Existing Transit Services

Existing transit services in the vicinity of the project site are provided by VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The closest bus stops serviced by the VTA are located on Santa Clara Street, approximately 500 feet south of the project site. The project site is located approximately 0.5 miles west of the First Street/Santa Clara Street Light Rail Station and approximately 0.7 miles northeast of the Diridon Transit Center located on Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. Figure 4.17-2 on the following page shows the existing transit facilities.

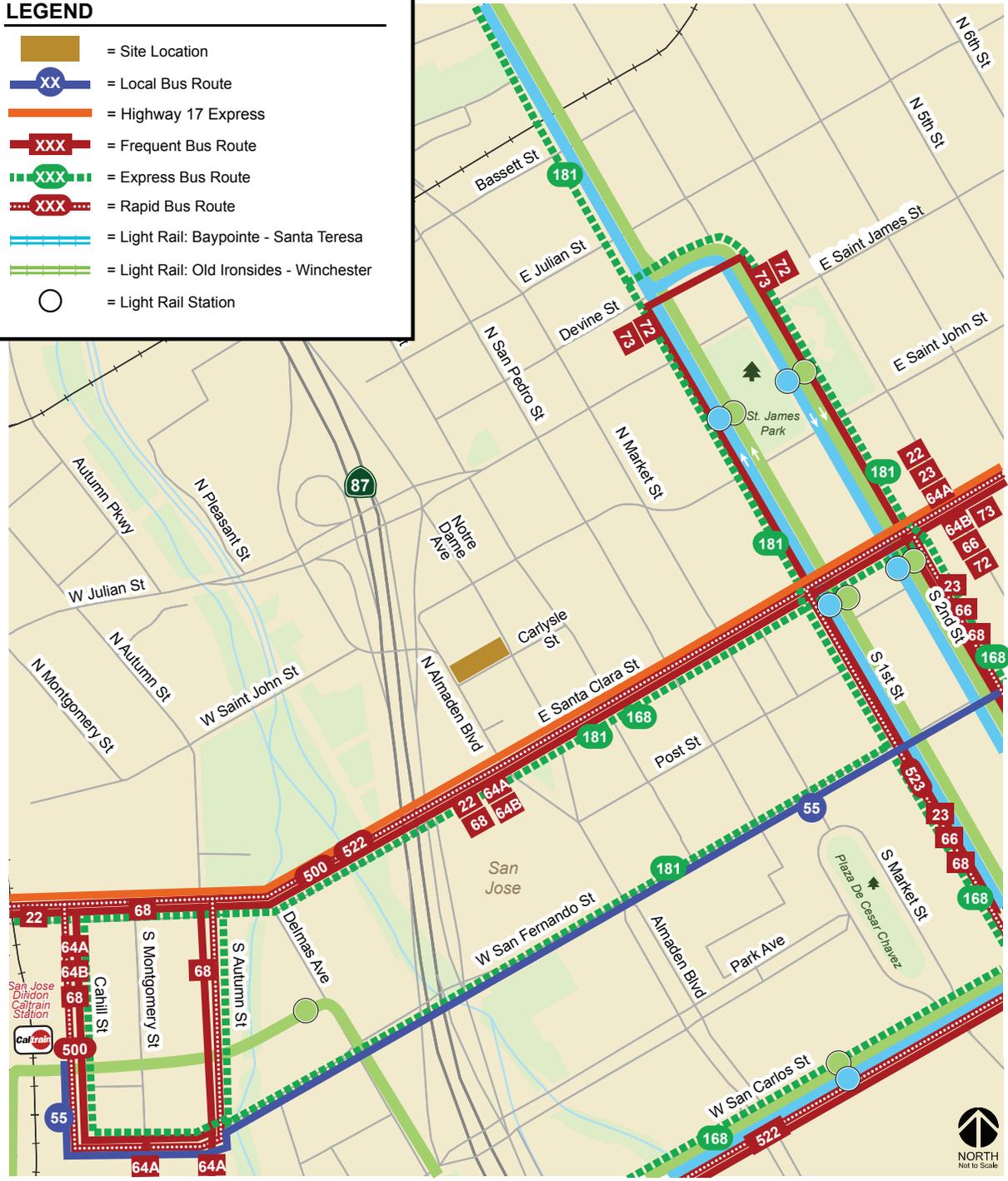
Bus Service

The downtown area is served by many local bus lines. The bus lines that operate within ¼-mile walking distance of the project site are shown below in Table 4.17-1.

Table 4.17-1: Existing Bus Service Near the Project Site		
Route	Route Description	Headway¹ (min)
Local Route 22	Palo Alto Transit Center to Eastridge Center	15
Local Route 23	De Anza College to Alum Rock via Stevens Creek	15
Local Route 55	Old Ironsides Station to De Anza College	30
Local Route 64A	McKee and White to Ohlone-Chynoweth Station	30
Local Route 64B	McKee and White to Almaden Expressway and Camden	30
Local Route 66	North Milpitas to Kaiser San José	15
Local Route 68	Gilroy Transit Center to San José Diridon Station	15
Local Route 72	Downtown San José – Senter & Monterey via McLaughlin	15
Local Route 73	Downtown San José – Senter & Monterey via Senter	15
Express 168 ²	Gilroy Transit Center to San José Diridon Station	20
Express 181	Fremont BART Station to San José Diridon Station	20-30
Rapid 500	San Jose Diridon Station to Downtown San José	15
Rapid 522	Palo Alto Transit Center to Eastridge Transit Center	12
Rapid 523	Berryessa BART to Lockheed Martin via De Anza College	15
Hwy 17 Express	Downtown Santa Cruz/Scotts Valley to Downtown San José	15-30
<u>Notes:</u>		
1 Approximate headways during peak commute periods.		
2 Express Route 168 is primarily a commuter route. It runs in the northbound direction only in the mornings and the southbound direction only in the evenings.		

LEGEND

- = Site Location
- = Local Bus Route
- = Highway 17 Express
- = Frequent Bus Route
- = Express Bus Route
- = Rapid Bus Route
- = Light Rail: Baypointe - Santa Teresa
- = Light Rail: Old Ironsides - Winchester
- = Light Rail Station



Source: Hexagon Transportation Consultants

VTA Light Rail Transit Service

The VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24-hours a day with 15-minute headways during much of the day. The Green (Winchester-Old Ironsides) and Blue (Santa Teresa-Baypointe) lines operate along First and Second Streets, north of San Carlos Street. The First Street/Santa Clara and Second Street/Santa Clara stations are located approximately 0.4 miles and 0.5 miles east, respectively, of the site. Diridon Station is located approximately 0.7 miles southwest of site and is served by the Green light rail line.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on the average weekday. The project site is located approximately 0.7 mile from the San José Diridon Station. Trains stop frequently at the Diridon Station between 4:28 AM and 10:30 PM in the northbound direction, and between 6:31 AM and 1:38 AM in the southbound direction. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during commute hours.

ACE Service

ACE provides commuter rail service between Stockton, Tracy, Pleasanton, and San José during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon and evening with headways averaging 60 minutes. ACE trains stop at the Diridon Station between 6:30 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, with stops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the Diridon Station seven times during the weekdays between approximately 7:37 AM and 9:05 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during the weekdays between 6:42 AM and 7:15 PM.

4.17.2 Impact Discussion

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

As discussed below, the proposed project would not result in a new or greater transportation impact than was disclosed in the Downtown Strategy 2040 FEIR.

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

Transit Facilities

The project site is near major transit services, such as light rail lines, bus stops, and commuter train services, that would support multi-modal travel to and from the site. The project would not physically remove or inhibit access to any of these transit facilities. The proposed project would result in minor delays to transit vehicles (less than three seconds per vehicle); however, the City does not have established significance criteria for transit delay and the minor increase in delay would not interfere with the functionality of the transit system. Therefore, implementation of the proposed project would not conflict with any program, plan, ordinance or policy addressing transit facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Roadways

As described in Section 4.17.2.2 below, the proposed project would result in an increase in vehicle trips on the surrounding roadways. The project’s effect on vehicle delay on nearby roadways would not be considered a significant transportation impact under CEQA, as VMT is the City’s adopted standard for assessing transportation impacts. As described under Question b) below, the proposed project is located within the Downtown area and would not result in a significant VMT impact.

The City of San José is planning to convert Almaden Boulevard, between Carlisle Street and Santa Clara Street, from one-way to two-way operations. The proposed improvements include the addition of one northbound vehicular travel lane and signal modifications at the Almaden Boulevard/Santa

Clara Street intersection to provide a new left-turn lane from eastbound Santa Clara Street to Almaden Boulevard. At the time of preparation of this IS/Addendum, there is no implementation schedule nor has funding been secured for the Almaden Boulevard conversion project. Nonetheless, the proposed project would not preclude the City from making this planned roadway improvement. Therefore, implementation of the project would not conflict with any program, plan, ordinance or policy addressing roadways. **[Same Impact as Approved Project (Less than Significant Impact)]**

Bicycle Facilities

The project site is adequately served by existing bicycle facilities. As mentioned in Section 4.17.1.2 Existing Conditions, there are Class II bicycle facilities on Almaden Boulevard and Notre Dame Avenue along the project frontages and Class III bikeways along St. John Street east of Autumn Street. The Guadalupe River Trail, a Class I pedestrian and bicycle trail, is accessible from West Santa Clara Street and North Almaden Boulevard, approximately 750 feet to the west of the site. The proposed project would not remove or inhibit access to any existing or planned bicycle facilities. In addition, the project is proposing to implement a TDM program which would provide a bicycle share program or free use of bicycles on-site that is available to all tenants of the proposed building. Therefore, implementation of the project would not conflict with any program, plan, ordinance or policy addressing bicycle facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Pedestrian Facilities

Sidewalks are provided along the project frontages and crosswalks with pedestrian signal heads are available at the intersections of West Santa Clara Street with Almaden Boulevard and Notre Dame Avenue. The existing sidewalks in the project vicinity have good connectivity and provide pedestrians with safe routes to surrounding pedestrian destinations in the area.

The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development to enhance the pedestrian experience in the downtown area. Almaden Boulevard and Notre Dame Avenue 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 DSMP policies state that vehicles crossing sidewalks are often a safety hazard for pedestrians and measures should be taken within the design of any new project to minimize the number of curb cuts and driveways. The proposed project would provide one 26-foot wide two-way driveway along Almaden Boulevard, which meets the City's standards (Department of Transportation Geometric Design Guidelines) of 16 to 32-foot wide driveways for commercial developments. This provides a reasonably short crossing distance for pedestrians and minimizes the extent of pedestrian and automobile interactions.

In addition to existing pedestrian facilities, the project proposes pedestrian improvements at the Notre Dame Avenue and Carlisle Street intersection. Half bulbouts and Rapid Rectangular Flashing Beacons will be installed on the northwest and northeast corners. In addition, ADA compliant ramps would be installed as part of the frontage improvements. The proposed improvements will improve the safety and connectivity of the pedestrian network within the vicinity of the project. For these reasons, the proposed project would not conflict with any program, plan, ordinance, or policy

addressing pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Any development that exceeds the City's VMT thresholds would be subject to the standard process for evaluating a project's VMT, as outlined in Policy 5-1. Based on the Downtown Strategy 2040 FEIR, future development within the downtown area would result in low VMT. The proposed project is located within the downtown area which does not exceed VMT per job and residential VMT per capita (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). For these reasons, the project would be exempt from the City's VMT policy and preparation of a comprehensive Transportation Analysis (TA) to evaluate the project's traffic impacts is not required. The proposed project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

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

A two-way driveway along Almaden Boulevard will provide ingress and egress for the on-site parking garage. As described above, the proposed driveway is 26 feet wide, which meets City standards. Almaden Boulevard carries a relatively low volume of traffic, which would generally allow for vehicles to easily exit the garage. Adequate sight distance should be provided at the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards to avoid collisions and provide drivers with the ability to exit the driveway. The AASHTO stopping sight distance for a facility with a posted speed limit of 25 mph is 150 feet. A driver exiting the proposed project driveway must be able to see 150 feet to the north and south along Almaden Boulevard in order to stop and avoid a collision. Based on the proposed site plan and observations in the field, vehicles exiting the project driveway would be able to see approaching traffic from the south along northbound Almaden Boulevard as far away as 200 feet. Therefore, the project driveway would meet AASHTO minimum stopping sight distance standards. The project would not substantially increase hazards due to vehicles entering and exiting the project driveway on Almaden Boulevard.

Once vehicles access the proposed building, they would circulate through continuous drive aisles throughout the four above-ground parking levels. The City's standard minimum width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. The drive aisles are currently proposed between 24 and 25.5 feet wide, which does not meet the City's minimum standards; however, this would not create substantial hazards. The project proposes retail, office and residential land uses in the highly urbanized downtown area. The proposed land use would not substantially increase hazards due to incompatible uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project result in inadequate emergency access?

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

4.17.2.2 Operational Transportation Issues Not Required Under CEQA

Trip Generation

A trip generation analysis was completed by *Hexagon Transportation Consultants* to estimate the number of external vehicle trips generated by the proposed project. Vehicle trips generated by the proposed project were estimated using the rates for “Multifamily Housing (High Rise)” (Land Use Code 222), “General Office Building” (Land Use Code 710), and “Shopping Center” (Land Use Code 820) published in the Institute of Transportation Engineers’ (ITE) *Trip Generation Manual*, 10th edition (2017). The trip generation rates were applied to 290 multifamily residential units, 123,500 square feet of office space, and 7,600 square feet of retail/restaurant space. The baseline trip estimates were reduced to account for the mixed-use nature of the project, its location, and the surrounding transportation network. Reductions were applied based on the VTA Transportation Impact Analysis Guidelines and the San José VMT Evaluation Tool.

Table 4.17-2 below shows the project trip generation estimates.

Table 4.17-2: Project Trip Generation Estimates							
Land Use	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
<i>Proposed Land Uses</i>							
Multifamily Housing (High Rise)	1,291	22	68	90	63	41	104
General Office Building	1,203	123	20	143	23	119	142
Shopping Center	287	4	3	7	14	15	29
Total Project Trips	1,817	98	59	157	61	113	174

Based on the trip generation table above with the reductions applied, the project would generate approximately 1,817 new daily trips with a total of 157 daily trips during the AM peak hour and 174 daily trips during the PM peak hour.

Parking

According to the City of San José Downtown Zoning Regulations (Table 20-140 in the Zoning Code), the proposed project would be required to provide 599 off-street parking spaces (290 for residential uses and 309 for office uses). The project is not required to provide any off-street parking for the proposed retail uses. The project proposes to provide a total of 330 off-street parking spaces, with 290 allocated to the residential units and 40 allocated to the office space. The proposed residential parking spaces would meet the City’s parking requirement. However, the proposed 40 parking spaces for the office use would amount to an 87 percent reduction from the required 309 off-

street parking spaces. The proposed project would be eligible for a 50 percent reduction in the required off-street parking spaces because the project site is located within 2,000 feet walking distance of an existing rail station (Santa Clara Street Light Rail Station) and the project provides bicycle parking spaces in conformance with the requirements of Table 20-90 (Municipal Code Section 20.90.220.A.1). To be eligible for the remaining off-street parking reductions, the project is proposing to implement a TDM program, subject to the approval of the City.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

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

Under AB 52, a TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
 - Included or determined to be eligible for inclusion in the California Register of Historic Resources⁸⁵
 - 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.

While consultation is not required for Addendums, the tribal representatives will be notified of the project as interested stakeholders.

Local

Envision San José 2040 General Plan

The City of San José sets forth the following policies pertaining to tribal cultural resources in its General Plan.

Envision San José 2040 Tribal Cultural Resources Policies

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

⁸⁵ 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)).

- ER-10.2 Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon 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.
- 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.

4.18.1.2 Existing Conditions

As described in Section 4.5 Cultural Resources, an archaeological literature search has been completed for the project site to assess the sensitivity of the site for historic and pre-historic cultural resources, including tribal cultural resources. The results of the literature search indicate that the site has a high potential for both historic and pre-historic cultural resources. The project site is located in an area of downtown San José where Native American sites have been identified within a half mile of the Guadalupe River and its tributaries. Isolated burials have also been identified near both sides of the Guadalupe River. Due to the project site’s proximity to the Guadalupe River, it is considered to have high sensitivity for subsurface tribal cultural resources.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

There are no tribal cultural resources at the project site that have been listed or are eligible for listing in local or state inventories of historical resources. Project construction activities have the potential to disturb as-yet-undiscovered tribal cultural resources, which could be eligible for listing in the California Register. While it is possible that tribal cultural resources are unearthed during demolition, grading, and excavation at the project site, the mitigation measures and standard permit conditions included in Section 4.5 Cultural Resources would ensure any discovered resources are properly evaluated and necessary steps are taken to ensure they are not significantly impacted. Therefore, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency and subsequently requested formal consultation. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. At the time of preparation of this IS/Addendum, no Native American tribes that are or have been traditionally and/or culturally affiliated within the project vicinity have requested consultation from the City of San José under AB 52 regarding projects in the area and their effects on a tribal cultural resource.

As described above, the mandatory measures required by the Downtown Strategy 2040 FEIR and mitigation measures described in Section 4.5 Cultural Resources would ensure tribal cultural resources are not significantly impacted if they were to be accidentally uncovered during construction or pre-construction subsurface exploration of the site. Therefore, the impact would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

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

Assembly Bill 939

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

Assembly Bill 341

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

Senate Bill 1383

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

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include the

following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Utilities and Service Systems Policies

Policy	Description
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City’s potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City’s Municipal NPDES Permit to reduce urban runoff from project sites.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

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

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

San José Zero Waste Strategic Plan/Climate Smart San José

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

Private Sector Green Building Policy

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

4.19.1.2 Existing Conditions

The approximately 0.67-acre project site is developed with an 8,890-square foot commercial building, surface parking, and a fenced open space area. The site is served by existing water, electric, gas, stormwater, and sewer utilities.

Water Service

Water service to the project site is provided by the San José Water Company (SJWC). The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water. Approximately 55 percent of SJWC's water supply is purchased from the SCVWD, 37 percent is pumped from local groundwater aquifers, and eight percent comes from local surface water sources. According to the SJWC's UWMP, total water demand within its service area is expected to increase to 47,144 million gallons in 2020 and 49,561 million gallons in 2025. Forecasted increases in water demand are based on the ABAG population projections for the City of San José.

The existing commercial building on the project site uses approximately 811,213 gallons of water per year, or 2,223 gallons per day.⁸⁶

Sanitary Sewer/Wastewater Treatment

Wastewater from the project site is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), which is administered and operated by the City Department of Environmental Services. The RWF has the capacity to treat 167 million gallons of wastewater per day (mgd) during dry weather flow, with the City allocated 108.6 mgd of existing capacity.⁸⁷ The City of San José generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 of excess treatment capacity at the RWF for the City's wastewater treatment demands.⁸⁸

Wastewater from the project site is conveyed to the City's sewer system via an existing 12-inch sanitary main in Carlisle Street. Using the previously calculated values for water demand of the existing building, the site currently generates approximately 1,889 gallons of wastewater per day.⁸⁹

Storm Drainage

The project site is located within an urbanized area served by an existing storm drainage system. The existing site is covered by 21,980 square feet of impervious surfaces and 7,119 square feet of pervious surfaces. Stormwater from the site is conveyed to the Guadalupe River via 36-inch storm drain lines in Carlisle Street and Almaden Boulevard and eventually discharged to the San Francisco Bay.

Solid Waste

The City of San José currently generates approximately 1.7 million tons of solid waste annually.⁹⁰ The City is served by five landfills, nine recycling and transfer stations, five composting facilities, and eight processing facilities for construction and demolition debris.⁹¹ The landfills include Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road facilities. According to Santa Clara County's Integrated Waste Management Plan (IWMP), the County has adequate disposal capacity beyond 2030.⁹²

The existing building on the project site is estimated to generated 9.3 tons of solid waste per year.⁹³

⁸⁶ San José Water Company. *Downtown Strategy 2040 Water Supply Assessment*. September 2018.

⁸⁷ San José-Santa Clara Regional Wastewater Facility, 2017. <http://www.sanjoseca.gov/index.aspx?NID=1663>. Accessed August 5, 2019.

⁸⁸ City of San José. *Envision San José 2040 General Plan FEIR*. September 2011. Page 648.

⁸⁹ Based upon the CalEEMod standard wastewater generation rate of 85% of total water usage.

⁹⁰ City of San José. *2040 General Plan FEIR*. September 2011.

⁹¹ City of San José. *Assessment of Infrastructure for the Integrated Waste Management Zero Waste Strategic Plan Development*. 2008.

⁹² Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

⁹³ CalEEMod. Table 10.1 Solid Waste Disposal Rates. September 2016.

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) 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 checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it 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 checked="" type="checkbox"/>	<input type="checkbox"/>
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

As discussed below, the proposed project would not result in a new or greater utilities and service systems impact than was disclosed in the Downtown Strategy 2040 FEIR.

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

The proposed project would utilize existing water infrastructure, dispose of wastewater at the RWF, convey stormwater via the City’s existing drainage system, and connect to existing utility lines in the vicinity of the site for electricity, natural gas, and telecommunication services.

Water Facilities

The potable and irrigation water demands of the project would be met by existing service providers (SJWC), as is discussed under question b), below. Existing water lines in the adjacent streets would serve the proposed project. The project would not require the construction or expansion of water

delivery systems or the expansion of the boundaries of the SJWC service area. The project would comply with all applicable Public Works requirements to ensure water mains would have capacity for water and fire flows required by the proposed project. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Sanitary Sewer and Wastewater Treatment

The proposed project would connect to the City's existing sanitary sewer system and sanitary sewer lines in adjacent streets would be used to serve the project. The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have capacity for sewer service and water required by the proposed project. The 2040 General Plan FEIR concluded that implementation of General Plan policies requiring future development to provide adequate sewer system capacity would reduce project-level impacts to a less than significant level.

The proposed project would dispose of wastewater at the RWF, a wastewater treatment facility which has adequate capacity to accommodate the increased demand created by the project (refer to checklist question c). No relocation or construction of new or expanded treatment facilities would be required to serve the proposed project. The proposed project does not include the construction of any additional sewer mains or sewer lines, aside from lateral connections to the existing main in Carlisle Street. Installation of sanitary sewer laterals for the new building would occur during grading of the site and would result in minimal impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Storm Drainage

The project proposes to construct two new curb inlet catch basins along North Almaden Boulevard. One would connect to the existing manhole at the intersection of North Almaden Boulevard and Carlisle Street, and the other would connect to a new manhole in North Almaden Boulevard to be constructed by the project. The project's stormwater media filter device would connect to the new manhole. All stormwater runoff generated on-site by the project would be treated with the media filter device prior to being conveyed to the new manhole in the street. An additional curb inlet is proposed to be constructed along the Carlisle Street frontage, and would connect to the existing storm drain line in the street. Installation of new storm drain facilities would occur during grading and would result in minimal impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Electric Power, Natural Gas and Telecommunications

Existing utility lines would be undergrounded and used by the project for electric power and natural gas services. Connecting to the City's energy and communications grid would require trenching on the site, which would not require substantial excavation and is unlikely to result in unanticipated impacts. The project would be required to detail the exact locations for all utility connections and utility plans would be subject to review by the City. Therefore, the proposed project would not result in significant impacts from construction or relocation of new or expanded utilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would result in a net increase in water demand on the project site. Table 4.19-1 below shows the estimated water use of the proposed mixed-use building.

Table 4.19-1: Proposed Project Water Use Estimate			
Proposed Use	Size	Daily Water Use Rate*	Total Water Use (gallons/day)
Retail	7,951 square feet	0.25 gallons per day per square foot	1,988
Residential	290 dwelling units	100 gallons per capita, 3.20 residents per unit	92,800
Office	123,479 square feet	0.1 gallons per day per square foot	12,348
Total	-	-	107,136

*Source: San José Water Company. *Downtown Strategy 2040 Water Supply Assessment*. July 2018.

Relative to the water demand of the existing commercial building on-site, the proposed project would result in a net increase in daily water demand of approximately 104,913 gallons. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Future water demand from full build out of the downtown in 2040 would be approximately 7,533 acre-feet per year (AFY), which represents a 3.19 percent increase over the system wide 2013 water production of 146,776 acre-feet. Although the projected water demand from full build out of the Downtown Strategy 2040 FEIR is large, SJWC concluded that the increase was already accounted for in SJWC’s 2015 UWMP. The proposed project is a part of the growth expected in the downtown area and analyzed in the Downtown Strategy 2040 FEIR. Therefore, with implementation of the CALGreen requirements and the City’s Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The RWF currently has an excess capacity of 38.8 mgd of dry weather flow available to service the City of San José. Planned build out under the General Plan is estimated to result in a dry weather flow of 30.8 mgd, which would not exceed the capacity of the RWF. The proposed project is estimated to result in a net increase of 89,176 gallons of wastewater per day.⁹⁴ The wastewater demands of the proposed project would not result in an exceedance of wastewater treatment capacity

⁹⁴ Based upon the assumption that wastewater generation is equivalent to 85 percent of total water usage.

at the RWF. Increased demand at the RWF created by planned development under the General Plan is expected and accounted for in long term infrastructural planning by the City of San José and its partner agencies. The proposed project is consistent with planned development analyzed in the 2040 General Plan FEIR, SEIR, and Addenda thereto; therefore, the proposed project would not result in an unanticipated increase in wastewater treatment requirements at the RWF. The RWF would have adequate capacity to serve the project in addition to its existing commitments. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would result in a net increase in solid waste generated at the site. Table 4.19-2 below shows the estimated solid waste generated by the proposed mixed-use building.

Proposed Use	Size	Annual Solid Waste Rate*	Total Solid Waste Generation (tons/year)
Retail**	7,951 square feet	11.90 tons per 1,000 sf	94.6
Residential Units	290 dwelling units	0.46 tons per unit	133.4
Office	123,479 square feet	0.93 tons per 1,000 sf	114.8
Total	-	-	342.8

*Source: California Emissions Estimator Model. Table 10.1 Solid Waste Disposal Rates. September 2016.

**As the exact restaurant/cafe uses are undetermined, the CalEEMod land use of “High Turnover (Sit Down Restaurant)” was conservatively assumed.

Relative to the existing use on-site, the proposed project would result in a net increase in solid waste generation of 333.5 tons per year. The proposed project would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8. It is estimated that the City of San José currently achieves a solid waste diversion rate of 78 percent⁹⁵; therefore, the proposed project’s contribution to the landfill would be approximately 72 tons of solid waste per year. The proposed project would increase the solid waste generated at the site when compared to existing conditions; however, the Downtown Strategy 2040 FEIR concluded that waste generated by planned growth in the downtown area would not exceed the capacity of existing landfills serving the City of San José. Therefore, the project would not generate solid waste in exceedance of capacity of existing infrastructure or impair the attainment of solid waste reduction goals. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁹⁵ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

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

As mentioned above, the City of San José currently achieves a waste diversion rate of 78 percent, which exceeds the waste diversion requirements of AB 939 and AB 341. The proposed project would support the goals of the Zero Waste Strategic Plan by complying with the City's Construction and Demolition Diversion Program and providing readily accessible areas for recycling that serve the proposed building. By adhering to the requirements of the Zero Waste Strategic Plan and General Plan policies, the proposed project would not conflict with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements. **(Less than Significant Impact)**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

The proposed project is located in downtown San José, in an area which has not been designated as a very high fire hazard severity zone on CalFire maps.⁹⁶

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input 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; therefore, the project would not result in wildfire impacts. **(No Impact)**

⁹⁶ CalFire. “California Fire Hazard Severity Zone Map Update Project”. Accessed October 25, 2019. http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide

4.21

MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	Same Impact as "Approved Project"	Less Impact than "Approved Project"
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

As discussed in Section 4.3 Air Quality, construction activities on-site would include demolition of the existing building, grading and site preparation, trenching, building construction, architectural coating, and paving. The project would be required to implement the identified standard permit conditions during all phases of construction to reduce dust and other particulate matter emissions. The proposed project would exceed the single source cancer risk and PM_{2.5} thresholds during construction and operational activities. Implementation of MM AIR-1.1 and AIR-1.2 would reduce community risk impacts from construction of the project to be less than significant. The project would not exceed BAAQMD significance thresholds for criteria air pollutants, during construction or operational periods.

As discussed in Section 4.4 Biological Resources, the project would not impact sensitive habitats or species. The project would implement MM BIO-1 to reduce impacts to nesting raptors and migratory birds from tree removal and site disturbance activities. Additionally, the project would adhere to the required standard permit conditions for tree removal to ensure the project would not significantly impact the community forest. All trees removed would be required to be replaced in accordance with all applicable laws, policies, and guidelines. The project is a covered activity under the SCVHP and would be required to pay applicable fees prior issuance of any grading permits.

As discussed in Section 4.5 Cultural Resources, the proposed project site is located in an area with high potential for buried archaeological deposits or features. Excavation at the project site could result in the loss of culturally and scientifically valuable archaeological resources. Implementation of mitigation measures MM CUL-1.1 through -1.3 and standard permit conditions would ensure that impacts to archaeological resources are less than significant. Historic buildings, structures, or sites would not be impacted by the proposed project.

Implementation of the standard permit conditions listed in Section 4.7 Geology and Soils would reduce construction related erosion impacts and address seismic hazards in the project's design. Further, the project would implement standard permit conditions to ensure that paleontological resources are not significantly impacted if discovered during construction activities.

As discussed in Section 4.9 Hazards and Hazardous Materials, the building on-site was constructed prior to 1978 and most likely has materials that contain ACMs and/or lead-based paint. The project proposes to demolish the existing building on-site which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. Implementation of the standard permit conditions would reduce potential impacts from asbestos and/or lead-based paint to less than significant. In addition, development of the proposed project could expose construction workers and nearby residences to soil and groundwater contaminants during the construction phase of the project. Implementation of mitigation measures MM HAZ-2.1 and -2.2 would sufficiently reduce the exposure of construction workers and the public to hazardous materials during project construction.

As discussed in Section 4.9 Hydrology and Water Quality, the project would be required to implement standard permit conditions to reduce potential construction and post-construction water quality impacts.

As discussed in Section 4.13 Noise and Vibration, noise and vibration impacts from construction of the proposed project could potentially impact nearby sensitive receptors and historic and contemporary structures. Implementation of mitigation measures MM NOI-1.1 and MM NOI-2.1 would reduce these impacts to less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has

potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

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

Implementation of the proposed project could result in the loss of trees on the site. Any trees removed would be replaced in accordance with the City’s standard tree replacement ratios. The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable long-term impact on biological resources.

Earthmoving activities may result in the loss of unknown subsurface prehistoric and historic resources on-site. Because the project would implement the required Downtown Strategy 2040 FEIR measures as a condition of approval, and MM CUL-1.1 to MM CUL-1.4, the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

The project’s cumulatively considerable impact on air quality, greenhouse gases, noise, and transportation are discussed below. As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on aesthetics, agriculture and forestry resources, geology and soils, mineral resources, population and housing, public services, recreation, and utility and service facilities. The cumulative impacts to utilities, public services, and population and housing have been addressed in the General Plan FEIR, SEIR, and Addenda thereto and the Downtown Strategy 2040 FEIR and are accounted for in the City’s long-term infrastructure service planning. The project would not have a cumulatively considerable impact on these resources areas.
[Same Impact as Approved Project (Less than Significant Cumulative Impact)]

Cumulative Air Quality Impacts

Increased community risk can occur by introducing a new source of TACs to existing sensitive receptors in the project vicinity. The nearest sensitive receptors to the project site are the adjacent and nearby residences. BAAQMD recommends a 1,000 foot-radius for assessing community risks and hazards from TAC mobile and stationary sources. The sources of TAC emissions within 1,000 feet of the site include nine diesel-powered generators, SR 87, West Santa Clara Street, West Julian Street, and nearby construction projects (Almaden Corner Hotel, Post and San Pedro Tower). As discussed in Section 4.3 Air Quality, emissions from construction of the proposed project, when combined with emissions from nearby stationary and mobile sources of TACs, would exceed BAAQMD single-source thresholds for maximum infant cancer risk and PM_{2.5}, which is a significant air quality impact

of the proposed project. Mitigation measures (MM AIR-1.1 and MM AIR-1.2) are included in the project which would reduce the emissions generated during construction of the project to below the single-source health risk threshold. Because criteria air pollutant emissions would contribute to regional and global emissions of such pollutants, the identified thresholds developed by BAAQMD and used by the City of San José were designed such that a project impact would also be a cumulatively considerable impact. The proposed project was found to not exceed criteria air pollutant thresholds during construction or operation (refer to Table 4.3-4 and 4.3-5). For these reasons, the project would not result in a cumulatively considerable air quality impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

Cumulative Greenhouse Gas Impacts

The proposed project would meet mandatory criteria set forth in the City's GHG Reduction Strategy, thereby ensuring that the project does not interfere with the City's GHG reduction goals. The project would also be compliant with Climate Smart San José by developing a high density mixed-use building in a planned growth area of the City in proximity to transit and amenities. The GHG assessment completed for the proposed project determined that its operational emissions would not exceed both the service population threshold of 2.6 MT CO₂e/year and the bright-line threshold of 660 MT CO₂e used to determine a project's compliance with statewide GHG reduction targets through the year 2030. Because GHG emissions would contribute to regional and global emissions, the identified thresholds developed by BAAQMD and used by the City of San José were designed such that a project impact would also be a cumulatively considerable impact. Therefore, the proposed project, in combination with other development projects in the area, would not result in a significant cumulative GHG impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

Cumulative Noise and Vibration Impacts

The proposed project would not result in any significant permanent noise impacts. The primary concern related to the noise impacts of the project are construction-generated noise, and these impacts would be sufficiently mitigated to a less than significant level upon implementation of the mitigation measure MM NOI-1.1 as discussed in Section 4.13 Noise and Vibration. Potentially significant impacts from construction-generated vibration on historic and contemporary structures would be sufficiently reduced upon implementation of the mitigation measure MM NOI-2.1. Operationally, the project would not generate a significant increase in noise, with the primary cause of elevated noise levels in the area attributed to traffic noise from nearby highways and local roadways. Therefore, the project would not contribute to a cumulatively considerable noise impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

Cumulative Transportation Impacts

As previously mentioned in section 4.17 Transportation, the project is located in an area with low VMT and would not exceed VMT thresholds for employment or residential uses, consistent with City Council Policy 5-1. For that reason, the proposed project would be exempt from a quantitative VMT analysis. Furthermore, the proposed project is consistent with the Downtown Strategy 2040 FEIR, which concluded that that future development in the downtown is expected to result in low VMT.

The project completed an LTA to demonstrate conformance with multimodal transportation strategies, goals, and policies in the General Plan and address adverse effects to the transportation system (Appendix E1 of this Initial Study/Addendum). The proposed project site is not located within an area that has the potential to exceed acceptable VMT levels and would not require additional VMT analysis to determine consistency with adopted VMT policies. Therefore, the proposed project would not result in a cumulatively considerable transportation impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

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

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include hazardous materials and noise. Implementation of General Plan policies, mitigation measures, and standard conditions described in their respective sections would, however, reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **[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

City of San José

Department of Planning, Building & Code Enforcement

Rosalynn Hughey, Director

Robert Manford, Deputy Director

Thai Chau-Le, Supervising Planner – Environmental Review

Bethelhem Telahun, Planner

6.2 CONSULTANTS

David J. Powers & Associates, Inc.

Environmental Consultants and Planners

Shannon George, Principal Project Manager

Mike Campbell, AICP, Project Manager

Daniel DeBrito, Associate Project Manager

Zach Dill, Graphic Artist

Ryan Osako, Graphic Artist

Hexagon Transportation Consultants, Inc.

Transportation Consultants

Holman and Associates

Archaeological Consultants

Illingworth & Rodkin, Inc.

Air Quality and Acoustical Consultants

TreanorHL

Historical Consultants