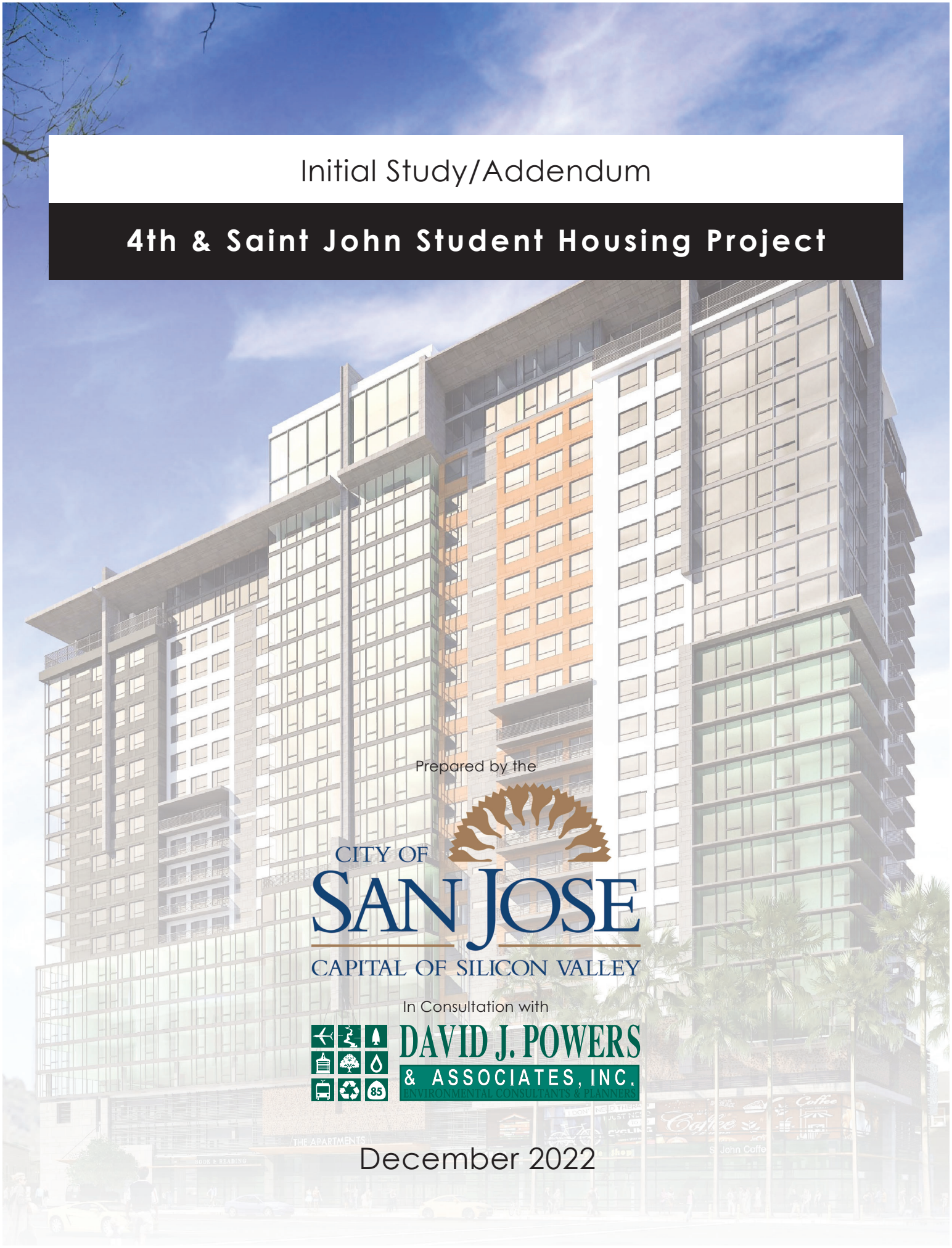

Initial Study/Addendum

4th & Saint John Student Housing Project

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

December 2022

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
CHRISTOPER BURTON, DIRECTOR

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.

H19-021– 4th and Saint John Student Housing Project. Site Development Permit to allow the relocation of the existing single-family houses at 146 and 152 North 4th Street (candidate City Landmarks) to the receiver site directly east at 117 North 5th Street, the removal of seven trees, and the construction of a 23-story, mixed-use building with up to 298 housing units and approximately 8,423 square feet of ground floor retail space.

Location: 100 - 152 North 4th Street on the northeast corner of the North 4th Street and East St. John Street intersection, and 117 North 5th Street in downtown San José.

Assessor's Parcel Number: 467-20-019, -020, -021, -022, -040, -074, and -117 **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:

☒Aesthetics	☒Agriculture Resources	☒Air Quality
☒Biological Resources	☒Cultural Resources	☒Geology and Soils
☒Greenhouse Gas Emissions	☒ Hazardous Materials	☒Hydrology & Water Quality
☒Land Use	☒Mineral Resources	☒Noise and Vibration
☒Population and Housing	☒Public Services	☒Recreation
☒Transportation/Traffic	☒Utilities & Service Systems	☒Energy
☒Growth Inducing	☒Cumulative Impacts	☒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 Downtown Strategy 2000: San Jose Greater Downtown Strategy for Development 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 wit the General Plan. The 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 grow 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, an d3,600 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 298 residential units and approximately 8,423 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).

Cassandra van der Zweep
Environmental Project Manager

Christopher Burton, Director
Planning, Building and Code Enforcement

October 3, 2023
Date

Deputy

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY/ADDENDUM

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

1.1.1 Downtown Strategy 2040

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

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

1.1.2 Envision San José 2040 General Plan

In 2011, the City of San José approved the 2040 General Plan, which is a long-range program for the future growth of the City. The General Plan FEIR (as amended) was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR (as amended) 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 (as amended) also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. The City of San José also approved an Envision San José 2040 General Plan Supplemental FEIR (General Plan SFEIR*)* to include and update the greenhouse gas emissions analysis in December 2015. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and SFEIR, to modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same.

This Initial Study/Addendum has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy Plan and the 2040 General Plan. In accordance with CEQA, this Initial Study/Addendum would tier from the Downtown Strategy FEIR and the General Plan FEIR (as amended).

This Initial Study/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 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

4th Street and St. John Street Student Housing Project; H19-021

2.2 LEAD AGENCY CONTACT

Cassandra van der Zweep
City of San José
Department of Planning, Building & Code Enforcement
200 East Santa Clara Street
San José, CA 95113(408) 535-7659
Cassandra.vanderzweep@sanjoseca.gov

2.3 PROJECT APPLICANT

Brent Lee
RPRO152N3, LLC
1060 South Third Street, Suite 185
San José, CA 95112

2.4 PROJECT LOCATION

The project is located at 100 - 152 North 4th Street on the northeast corner of the North 4th Street and East St. John Street intersection, and 117 North 5th Street in the City of San José. Regional, vicinity, and aerial maps are shown in Figure 2.8-1, Figure 2.8-2, and Figure 2.8-3 (respectively).

2.5 ASSESSOR'S PARCEL NUMBER

Assessor's Parcel Numbers (APNs): 467-20-019, -020, -021, -022, -040, -074, and -117.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

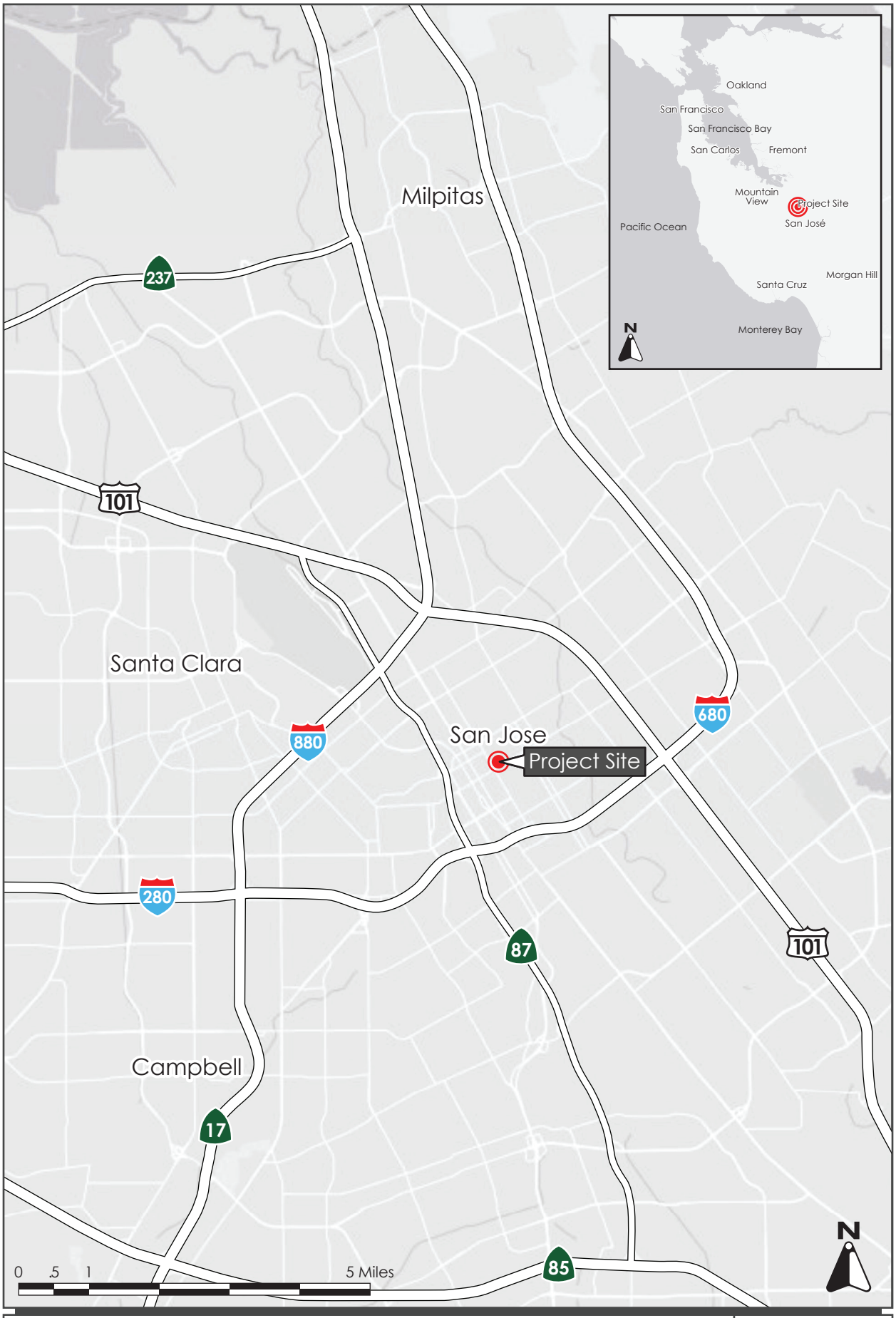
General Plan Designation:	Downtown, Transit Residential (receiver site)
Existing Zoning Designation:	Commercial General – CG, Multiple Residence – R-M (receiver site)
Proposed Zoning Designation:	Downtown Commercial - DC

2.7 HABITAT PLAN DESIGNATION

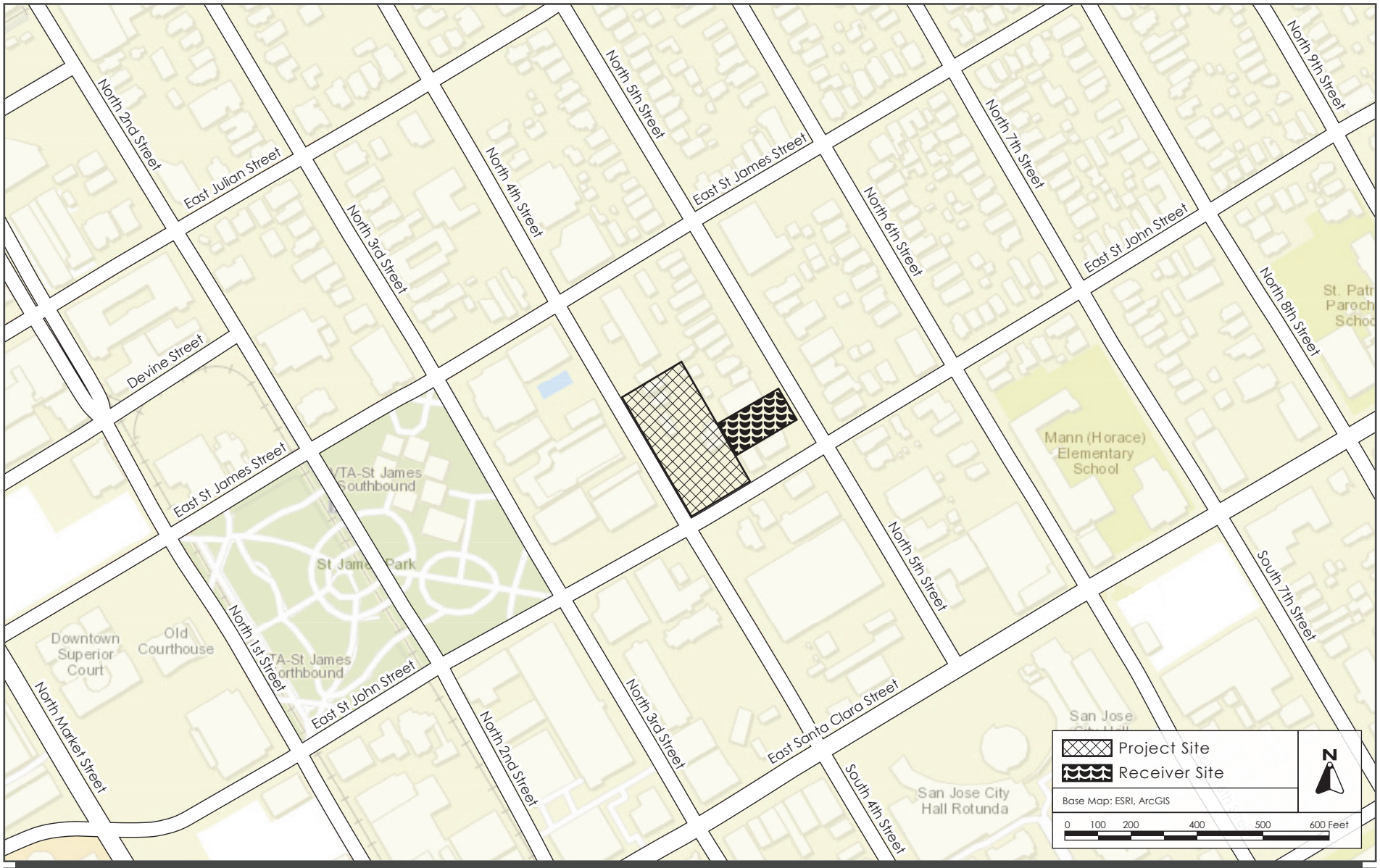
Land Cover Designation:	Urban-Suburban
Development Zone:	Urban Development Covered Equal to or Greater than Two Acres
Fee Zone:	Urban Areas (No Land Cover Fee)
Wildlife Survey Area:	Not Applicable

2.8 PROJECT-RELATED DISCRETIONARY APPROVALS

- Site Development Permit
- Vesting Tentative Map
- Public Works Clearances
- Demolition Permit, Grading, and Building Permit(s)



REGIONAL MAP | FIGURE 2.8-1



VICINITY MAP

FIGURE 2.8-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.8-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT LOCATION

The approximately one-acre project site is composed of six parcels (APNs 467-20-019, -020, -021, -022, -023, and -040) located at the northeast corner of the North 4th Street and East St. John Street intersection in the downtown area of the City of San José. Additionally, the project proposes to relocate two single-family residences (as described below). The receiver site is located at 117 North 5th Street, directly east of the project site.

3.2 EXISTING CONDITIONS

3.2.1 Project Site

The project site is currently developed with two unoccupied, single-family houses located in the northwest corner (146 and 152 North 4th Street). The remainder of the project site is developed with a mixture of paved and dirt surface parking. The project site is designated Downtown in the Envision San José 2040 General Plan (General Plan) and has a CG – Commercial General Zoning District. There is a total of 14 trees on the project site or bordering the eastern property line of the site. Seven trees, including six ordinance-sized trees, would be removed as part of the project.

3.2.2 Receiver Site

The receiver site is currently vacant and designated Transit Residential in the General Plan and has a R-M – Multiple Residential Zoning District. There are three small, ornamental trees on the receiver site.

3.3 PROPOSED PROJECT

The proposed project is seeking a Site Development Permit which would allow for the relocation of the existing single-family houses (candidate City Landmarks) to the receiver site directly east of the site and the removal of seven trees, including six ordinance size trees, to facilitate the construction of a 23-story, mixed-use building with up to 298 housing units and approximately 8,423 square feet of ground floor retail space. The housing units would be intended for student use.

Three levels of parking would be provided above the ground floor retail; the remaining floors would consist of housing units. The maximum height of the building would be approximately 240 feet to the roof and approximately 250 feet at the top of the rooftop mechanical screening. The site plan and building elevations for the proposed project are shown in Figure 3.3-1 and Figure 3.3-2/Figure 3.3-3, respectively.

3.3.1 Student Housing

The project proposes to construct 298 housing units on floors five through twenty-three; above the ground floor retail and three levels of above grade parking. Additionally, a lobby, leasing office, elevators, and mail room would be located on the ground floor. The building would include a mix of two-bedroom, three-bedroom, and four-bedroom units. In total, the project would add approximately 1,424 beds. By law there cannot be restrictions on who may occupy the building. As such, the

building may be rented by unit or by bed. The analysis in this document assumes standard occupancy for high-rise apartments. The development shall comply with all applicable Fair Housing laws, regulations, and requirements. Two courtyards on the northeast side of the building would provide residential open space for the housing units.

3.3.2 Relocation of Existing Structures

The project site currently contains two nineteenth-century, Queen Anne - style residential structures (146 and 152 North 4th Street.) These structures were identified as candidate City Landmarks and are eligible for the California Register of Historic Resources (CRHR) as discussed in Section 4.5 Cultural Resources. The project includes relocation of these two structures to a vacant parcel immediately east of the project site at 117 North 5th Street (APN: 467-20-074), as shown in Figure 3.3-4. As part of the project, the relocated structures would be rehabilitated consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Relocation of the existing structures is described in detail in Section 4.5 Cultural Resources and Appendix E.

3.3.3 Ground Floor Retail

The project would include approximately 8,423 square feet of retail space on the ground floor. The retail space would be located in the southwest corner of the building at the North 4th Street and East St. John Street intersection.

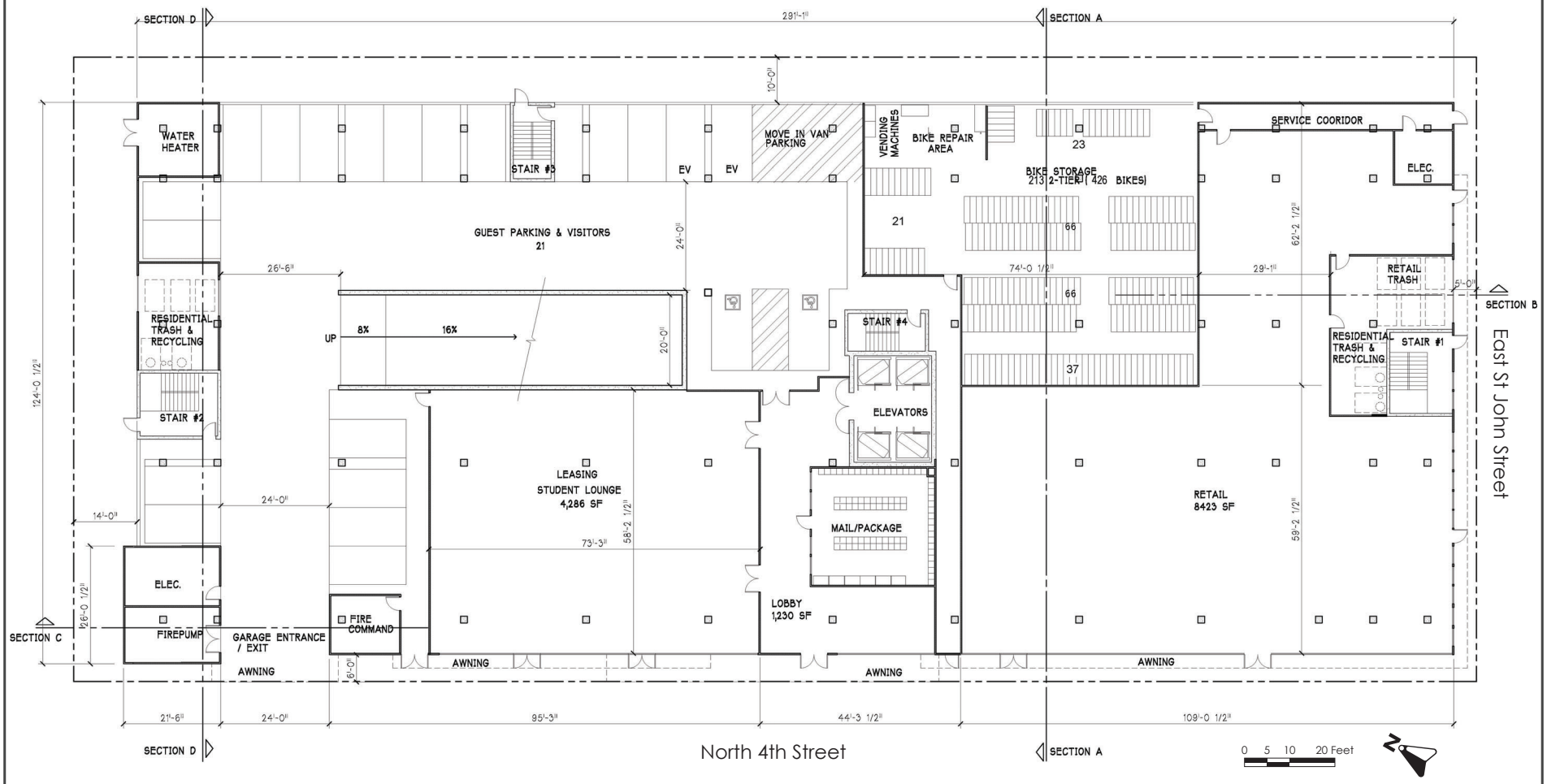
3.3.4 Site Access and Parking

Pedestrian access to the residential lobby would be located along North 4th Street. Access to the retail space would be located on both North 4th Street and East St. John Street. A bicycle storage room on the ground floor would provide 426 long term bicycle spaces. The entrance to the parking garage would be located on North 4th Street near the northwest corner of the building. The ground floor of the parking garage would provide 21 guest/visitor vehicle parking spaces. The second to fourth floors of the parking garage would provide up to 266 parking spaces for the residential units above. No parking for the ground floor retail uses would be provided.[1]

3.3.5 Green Building Measures

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve, at minimum, LEED Silver certification by incorporating a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections.

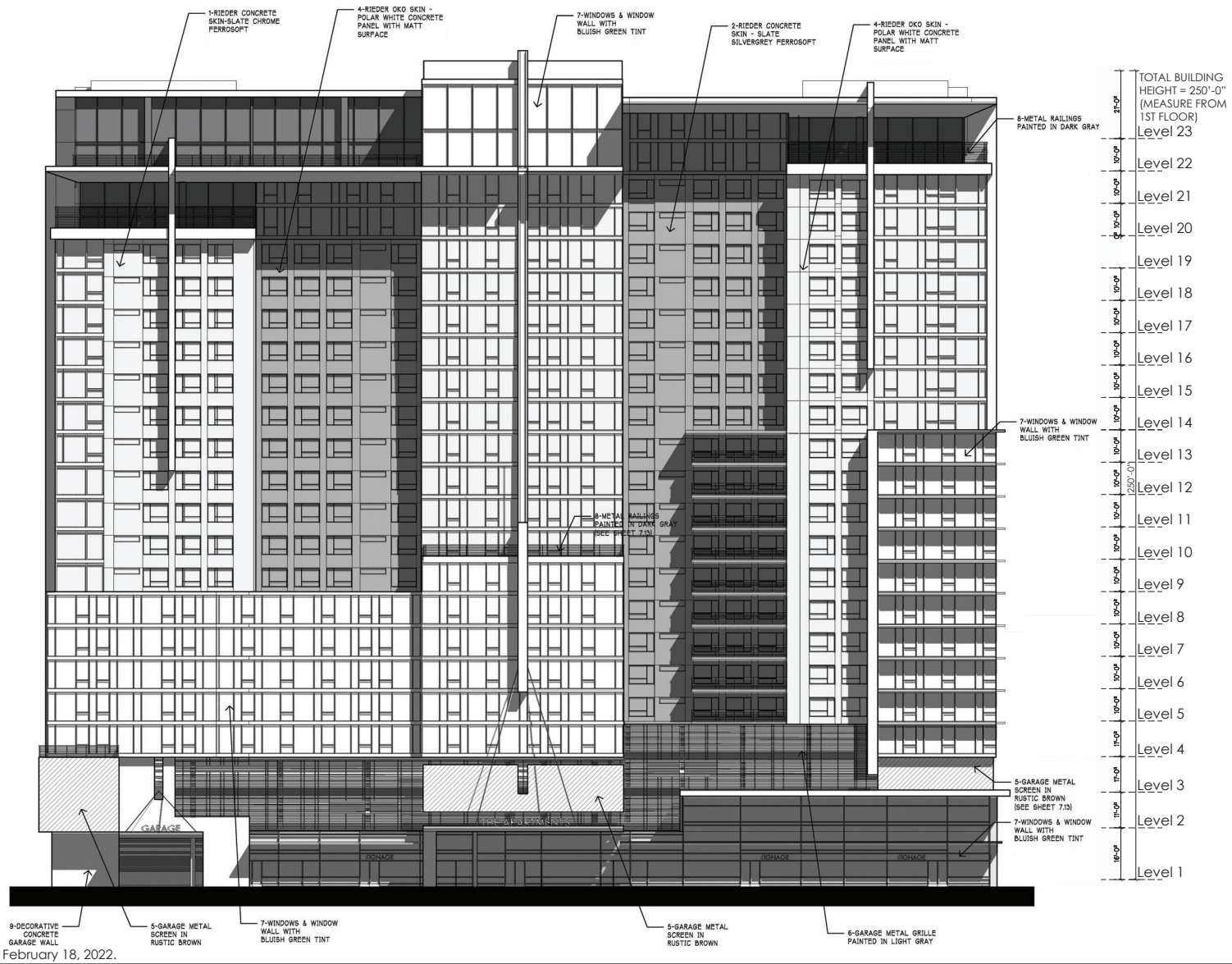
[1] No retail parking is required for sites in the DC zoning district, pursuant to Table 20-140 of Section 20.70.100.



Source: LPMD Architects., February 18, 2022.

CONCEPTUAL SITE PLAN

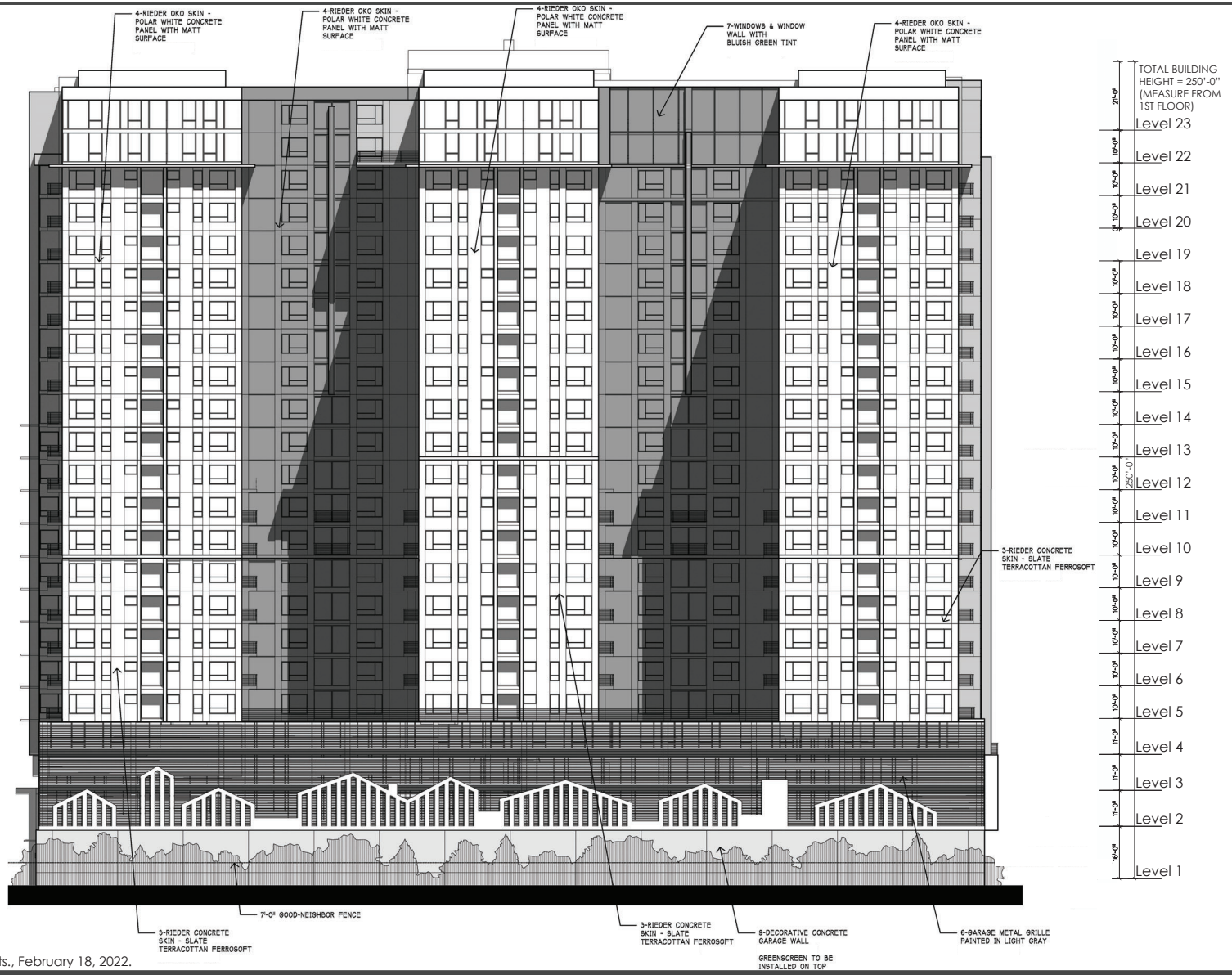
FIGURE 3.1-1



Source: LPMD Architects., February 18, 2022.

CONCEPTUAL BUILDING ELEVATIONS - 4TH STREET

FIGURE 3.3-2



Source: LPMD Architects., February 18, 2022.

CONCEPTUAL BUILDING ELEVATIONS - 5TH STREET

FIGURE 3.3-3

RELOCATION SITE PLAN

FIGURE 3.3-4

3.3.6 Utilities and Service System Improvements

The proposed project would connect to existing utilities in the vicinity, as discussed further in Section 4.19 Utilities and Service Systems. Stormwater would be retained and treated in stormwater planters in the courtyard areas and underground mechanical units would treat stormwater for the rest of the project site.

3.3.7 Construction

Construction activities associated with the proposed project would last approximately 28 months (approximately 4,528 hours of construction) and include relocation of the existing houses, utility connections, building construction, frontage improvements (e.g., new curb, gutter, sidewalk, and street tree planting), and landscaping on the site. The project would require pile driving with compacted stone piers 35 to 45 feet in length with a mat foundation, or auger cast or pre-cast piles of 70 to 80 feet in length. The estimated amount of cut and fill during project construction would be 6,500 cubic yards, with approximately 6,500 cubic yards of soil being exported off-site during construction.

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

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).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

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

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

SB 743 clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Scenic Highways Program

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

City of San José

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls)

[2] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.50 mile of a major transit stop that is existing or planned as part of a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "CEQA: Transportation impacts (SB 743)". Accessed March 9, 2022. https://opr.ca.gov/ceqa/sb-743/#:~:text=SB%20743%20(Steinberg%2C%202013),more%20options%20to%20drive%20less.

[3] California Department of Transportation. "Scenic Highways". Accessed March 9, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

regulates the removal of trees on private property within the City, in part to promote scenic beauty of the city. The City's Municipal Code also includes controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

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

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

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

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

Envision San José 2040 General Plan

The General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the Downtown area is designated as a gateway for scenic purposes.

The following policies in the General Plan are applicable to the project and have been adopted for the purpose of reducing or avoiding impacts.

General Plan Policies - Aesthetics	
Attractive City	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and

General Plan Policies - Aesthetics	
	development of community character and for the proper transition between areas with different types of land uses.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
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.
Downtown Urban Design	
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
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-6.10	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.

4.1.1.2 *Existing Conditions*

Project Site

The approximately one-acre site is located at the northeast corner of North 4th Street and East St. John Street. The northwestern portion of the project site is currently developed with two Queen Anne-style, single-family residences that are potentially eligible as City Landmarks and are eligible for listing in the CRHR (see Photo 1). The 152 North 4th Street residence is a single-story residence while 146 North 4th Street is a two-story residence. The residences are wooden structures with front porches and ornate detailing typical of the Queen Anne-style. They are set close together and are approximately 20 feet set back from North 4th Street. The remainder of the site is undeveloped with a mixture of paved and dirt surface parking and unmaintained landscaping (see Photo 2). There are small ornamental trees along the northern and eastern property lines, and several trees overhanging the project site from adjacent properties.

Photo 1: View of northwest corner of project site facing east. Source: Google Maps.

Photo 2: View of southeast corner of the project site facing northeast. Source: Google Maps.

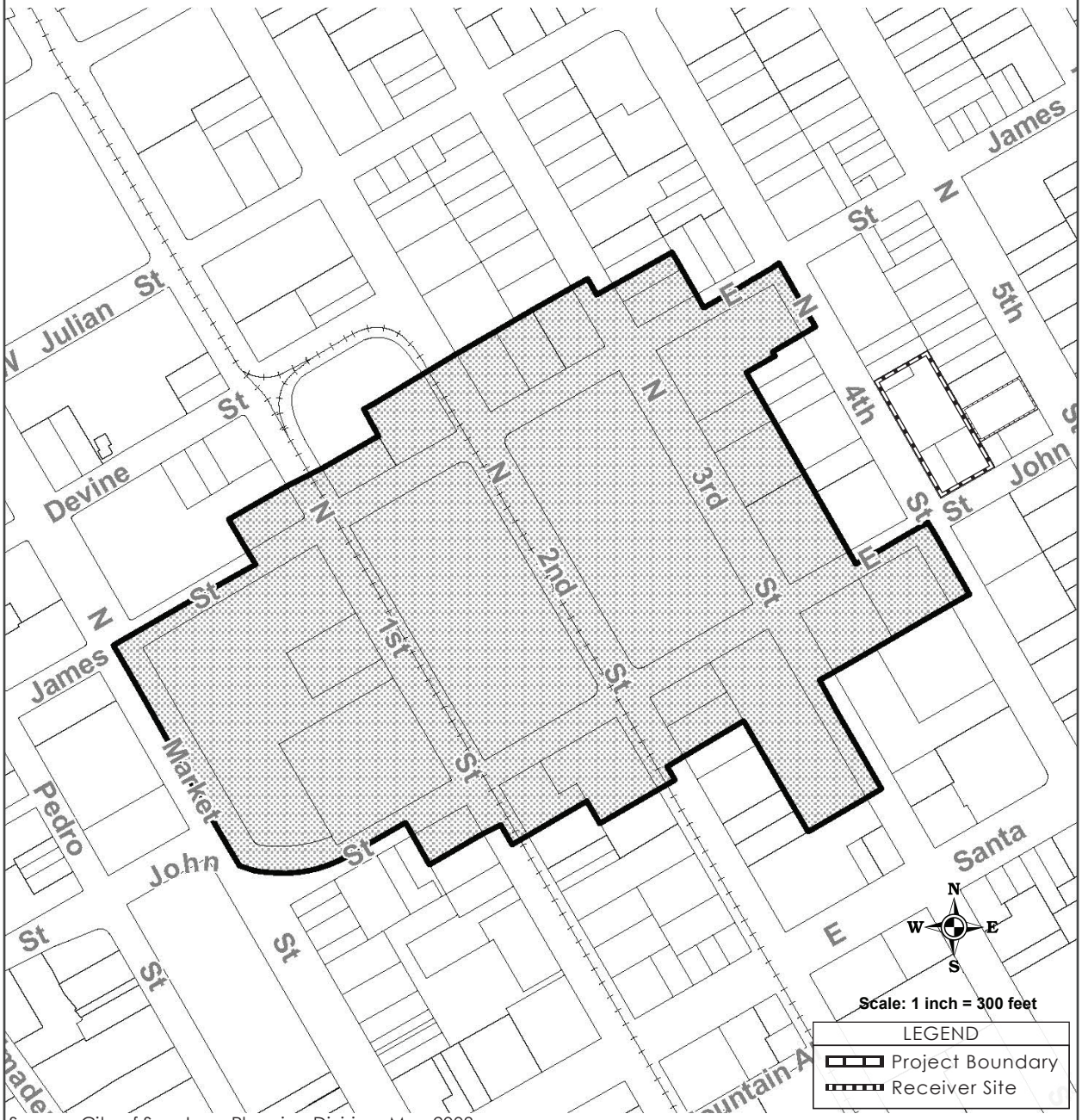
The structures would be relocated to 117 North 5th Street which is currently vacant. The receiver site contains three small, ornamental trees and is undeveloped except for remnant pieces of pavement.

Surrounding Area

The project area is an urban environment characterized by a variety of uses and structures. Historic residential and commercial structures are present in the project vicinity; however, recent mid-rise and high-rise development is also present. The area does not have architectural continuity and setbacks and styles vary considerably. The project site is surrounded by a mix of commercial, office, and residential buildings of varying styles and heights. South of the project site across East St. John Street is a six-story, contemporary apartment building. West of the project site across North 4th Street is a one-story, stucco commercial building and a 10-story, brick office building. Directly north of the project site is a single-family residence and a 10-story, concrete and stucco apartment building. Northwest and west of the project site are a mix of single-family residences and one- to two-story apartment buildings of varying materials, including stucco, wood siding, and concrete. The project site is bounded by a two-lane road to the south (East St. John Street) and a two-lane, one-way road to the west (North 4th Street, heading southbound).

Along the receiver site's frontage, North 5th Street, structures are primarily two stories in height, and designed with narrow front façades and residential-scaled side-yard setbacks. Immediately south of the structure relocation receiving site is a one-story, Queen Anne- style single-family residence, to the north is a two-story stucco apartment complex. This street has a mix of historic single-family residences and more modern multi-family residential apartments with varying materials, roof styles, and colors. The overall character of this residential area includes similar side setbacks between the single-family houses, large front setbacks, open apartment courtyards, landscaped areas between buildings, and a variety of yards and parking lot configurations. These characteristics provide aspects of open space. Although portions of the St. James Square Historic District are within 200 feet of the project site (see Figure 4.1-1), the elements of the district adjacent to the project site are non-contributing elements (they include vacant land and a high-rise rear addition to a contributing structure).

The project site has minimal or no views of the foothills of the Santa Cruz Mountains to the east. No scenic view corridors, scenic vistas, or scenic resources are located on site or in the project area.



Source: City of San Jose, Planning Division, May 2008

ST. JAMES SQUARE HISTORIC DISTRICT | FIGURE 4.1-1

Location within a Transit Priority Area

The project site is located within a Transit Priority Area as defined by SB 743. The St. James Light Rail Station (approximately 0.15 mile west of the project site) qualifies as a major transit stop.

Light and Glare

Existing ambient sources of nighttime lighting include neon and florescent signs, lighting of building exteriors for safety or architectural accents, lights within buildings that illuminate the exteriors of buildings through windows, landscape light, street lighting, parking lot lighting, and vehicle headlights. Glare in the downtown area is caused by the reflection of sunlight and electric lights from the existing windows and building surfaces.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views[4] of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

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

Similar to the capacity build out evaluated in the Downtown Strategy 2040, the proposed project would have a less that significant aesthetics impact, as described below.

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

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

The project would add a 23-story residential building to the project area. The project site is an infill site located within a transit priority area. Pursuant to SB 743 (Public Resources Code Section 21099(d)(1)), aesthetic impacts of a residential use on an infill site within a transit priority area are not considered significant impacts on the environment. Various high-rise buildings in the downtown area are visible from the project site and surrounding neighborhood to the south and the west. The proposed project would be similar in size and scale to these buildings located in the downtown area. Furthermore, public views of scenic vistas such as the Santa Cruz Mountains from the project site are currently minimal and the addition of the project would not have a substantial adverse effect on scenic vistas. Thus, the impact is less than significant. **[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 project would not damage scenic resources within a state scenic highway because there is no state scenic highway within the project's vicinity. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) In non-urbanized areas, would the project 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?

See response to Checklist Question a) relating to SB 743. Construction of the proposed project would develop a partially vacant site in the downtown area and improve the visual character of the corner of North St. John Street and 4th Street. The project would be consistent with and designed to meet the project site's zoning requirements. Visual impacts with regard to the historic character of the area are discussed in detail in Section 4.5 Cultural Resources. **[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?

Outside lighting on the proposed building would be limited; it would be focused at the ground floor retail level and would be comparable in brightness to the ambient lighting in the surrounding area. Landscape or architectural accent lighting that is aimed upward, would contain glare control, louvers or be shielded from direct vertical up light; consistent with the Downtown Design Guidelines, Downtown Strategy, and City Council Development Policies 4-2 and Policy 4-3.

The proposed exterior materials of the building would be reviewed as part of the City of San José approval process so that they would not result in glare, consistent with the relevant design guidelines and standards for the Downtown and Council policies. Relocation of the two existing single-family houses to the receiver site would also not create substantial light or glare, as they would have similar

lighting to the surrounding residential buildings and the building materials would not change. For these reasons, the proposed project would not create significant impacts to adjacent properties with nighttime lighting or daytime glare. **[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

Farmland Mapping and Monitoring Program

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

Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources. Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species.

4.2.1.2 *Existing Conditions*

The project site is not currently used for agricultural purposes, and is located within an existing developed, urban area of San José that is designated as Urban and Built-up Land by the California Department of Conservation under the FMMP.[5] The project site is not designated as farmland of any type and is not subject to a Williamson Act contract. Further, no land adjacent to the project site is designated or used as farmland or timberland.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the FMMP, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐

[5] California Department of Conservation. *Santa Clara County Important Farmland 2014 Map*. October 2016.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

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

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?

The site is not used or zoned for agricultural purposes. The site is not designated as farmland of any type and is not the subject of a Williamson Act contract. None of the properties adjacent to the project site are used for agriculture, nor designated as forest land. For these reasons, the project would have no impact on agricultural or forest resources. **[Same Impact as Approved Project (No Impact)]**

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

See response to Checklist Question a). **[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?

See response to Checklist Question a). **[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?

See response to Checklist Question a). **[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?

See response to Checklist Question a). **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

This section is based on the air quality analysis prepared for the project by Illingworth & Rodkin, Inc. in July 2019. This report is included as Appendix A to this Initial Study/Addendum.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

Federal and State

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

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants), including particulate matter (PM), ground-level ozone (O_3), carbon monoxide (CO), sulfur oxides, nitrogen oxides (NO_x), and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Toxic Air Contaminants

Toxic air contaminants (TAC) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer), but are not limited to, the criteria air 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. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[6] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been

[6] CARB. "Overview: Diesel Exhaust and Health". Accessed November 1, 2019. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

previously identified as TACs by CARB, and are listed as carcinogens either under the state's Proposition 65 or under the federal Hazardous Air Pollutants programs.

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 gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The City of Santa Clara and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing 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.

Sensitive Receptors

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

City of San José

Envision San José 2040 General Plan

The following General Plan policies have been adopted for the purpose of reducing or avoiding impacts related to air quality are applicable to the project. In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements, as well as parking reduction strategies that reduce automobile travel by limiting parking supply.

General Plan Policies - Air Quality	
Air Pollutant Emission Reduction Policies	
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 feasible air emission reduction measures.
MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
Toxic Air Contaminants Policies	
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 TACs to avoid significant risks to health and safety.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Objectionable Odor Policies	
MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
Construction Air Emission Minimization Policies	
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.1.2 *Existing Conditions*

The project is located in northern 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 (PM_{10}), and fine particulate matter ($PM_{2.5}$). The area is considered in attainment, or unclassified, for all other pollutants.

The project site is developed with two single-family residences and surface parking. The main sources of air pollution are from vehicle trips to and from the project site and adjacent traffic along North 4th Street, East St. John Street, and East Santa Clara Street. Additional sources of air pollution in the project area include two BAAQMD permitted generators and a gas station. The nearest adjacent sensitive receptors are residences located directly west and north of the project site. Residences are also located to the south across East St. John Street.

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐
d) Result in substantial emissions (such as odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

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

4.3.2.1 *Thresholds of Significance*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-1.

Table 4.3-1: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Annual Daily Emissions** (pounds/year)	**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	>10.0 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	
Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = course particulate matter with a diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 µm or less.			

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

The proposed project would not conflict with the 2017 CAP because construction and operational emissions would be less than the BAAQMD CEQA Air Quality Guidelines impact thresholds shown in Table 4.3-1 above. Because the project would not exceed the BAAQMD impact thresholds (described further under Checklist b), it would not result in significant impacts due to the generation of operational-related criteria air pollutants and/or precursors. Thus, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, the project is considered urban infill and would be located near bike facilities and transit with regional connections. Implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. 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)]**

Construction Period Emissions

Implementation of the project would result in short-term emissions from construction activities associated with site grading, asphalt paving, building construction and architectural coating. Emissions commonly associated with construction activities include fugitive dust from soil disturbance, fuel combustion from mobile heavy-duty diesel- and gasoline-powered equipment, portable auxiliary equipment, and worker commute trips. During construction, fugitive dust (the dominant source of PM_{10} and $PM_{2.5}$ emissions) is generated when wheels or blades disturb surface materials. Uncontrolled dust from construction can become a nuisance and potential health hazard to those living and working in the vicinity. Off-road construction equipment is often diesel-powered and can be a substantial source of NO_X emissions, in addition to PM_{10} and $PM_{2.5}$ emissions. Worker commute trips and architectural coatings are dominant sources of ROG emissions.

Criteria Pollutants Emissions

Table 4.3-2 shows average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust for construction of the project. As indicated in Table 4.3-2, the predicted construction period emissions would not exceed the BAAQMD significance thresholds.

Table 4.3-2: Construction Period Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Total construction emissions (tons)	4.1	3.1	<0.1	<0.1
Average daily emissions (pounds per day)[1]	14.5	11.1	0.2	0.2
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	**No**	**No**	**No**	**No**

[1] Assumes 566 workdays.

Operation

Operational air pollutant emissions from the project would be generated primarily from autos driven by future residents. Table 4.3-3 below shows the operational emissions of the project.

Table 4.3-3: Operational Period Emissions

Scenario	ROG	NO_x	PM_{10}	$PM_{2.5}$
2023 Project Operational Emissions *(tons/year)*	2.8	1.0	0.9	0.3
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceed Threshold?	**No**	**No**	**No**	**No**
2023 Project Operational Emissions (pounds/day)[1]	15.3	5.6	5.2	1.5
BAAQMD Thresholds (pounds/day)	*54*	*54*	*82*	*54*
Exceed Threshold?	**No**	**No**	**No**	**No**

[1] Assumes 365-day operation.

As shown in Table 4.3-3, the project would not exceed the BAAQMD significance thresholds for operational emissions. The project site is located within a Transit Priority Area and has easy access to bike lanes, light-rail stops, and bus stops, reducing the number of vehicle trips. In addition, the project is within walking distance of schools, commercial services, and employment centers. The project is, however, part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from build out of the full development program evaluated in the Downtown Strategy 2040 FEIR, which was found to result in significant and unavoidable regional criteria pollutants for which the region is non-attainment. Therefore, the project would result in the same impacts to regional criteria pollutants and their associated health effects as were disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

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 Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. Per the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in non-attainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above, the proposed project would not, by itself, result in any air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

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

Fugitive Dust

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries.

Consistent with the Downtown Strategy 2040 FEIR and General Plan Policy MS-13.1, the following Standard Permit Conditions for controlling dust and criteria pollutant emissions would be implemented during construction to reduce dust and other particulate matter in the area.

Standard Permit Conditions

Air Quality. The following measures shall be implemented 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 hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the standard permit conditions, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. The Downtown Strategy 2040 FEIR, concluded that construction emission impacts could be reduced to a less than significant level with the implementation of General Plan policies and existing regulations. In addition, these emissions would be temporary. Therefore, the proposed project would have a less than significant impact to regional and local air quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Related Health Risk Impacts

There are several sources of TACs and localized air pollutants in the vicinity of the project. Additionally, temporary project construction activity would generate dust and equipment exhaust that could affect nearby sensitive receptors. Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of DPM, organic TACs, and $PM_{2.5}$. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$.

The maximum concentrations of DPM and $PM_{2.5}$ during construction would occur on the second floor of the multi-family apartment building located south of the project site (see Figure 2 of

Appendix A), this is the maximally exposed individual (MEI). As shown in Table 4.3-4 below, cancer risk at this location would be 42.1, which is greater than the BAAQMD threshold of 10 in one million for cancer risk. The annual $PM_{2.5}$ concentration and hazard index are both below their BAAQMD single-source significance thresholds. As also shown in Table 4.3-4, the project's combined cancer risk, $PM_{2.5}$ concentration, and hazard index would not exceed the BAAQMD cumulative threshold.

Table 4.3-4: Impacts from Combined Sources at Construction MEI			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Single Source			
Unmitigated	**42.1 (infant)**	0.19	0.03
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Significant Unmitigated	**Yes**	No	No
Combined Sources			
East Santa Clara Street, 550 feet	1.2	0.03	<0.03
Plant #104124 (Gas Station), 415 feet	0.3	--	<0.01
Plant #15267 (Generator and Boilers), 750 feet	0.4	0.04	<0.01
Plant #23479 (Generator and Pump), 800 feet	0.2	<0.01	<0.01
Cumulative Total			
Unmitigated	**44.2**	<0.27	<0.09
BAAQMD Cumulative-Source Threshold	***>100***	***>0.8***	***>10.0***
Significant Unmitigated	No	No	No

Impact AIR-1: Exhaust from diesel powered construction equipment would exceed the regulatory Bay Area Quality Air Management District's toxic air contaminant (TAC) threshold and predicted cancer risk threshold at the nearest residential uses by 32.1 .

In addition to the Standard Permit Conditions above addressing construction dust and particulate matter, and in conformance with General Plan policies MS-10.1 and MS-13.1, the project shall implement the following mitigation measures to reduce cancer risk.

Mitigation Measure:

MM AIR-1.1: Prior to the issuance of any demolition, grading, and/or building permits, whichever occurs earliest, the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the City's Director of Planning Building and Code Enforcement

or Director's designee for review and approval. 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.

MM AIR-1.2: The project applicant or qualified air quality specialist shall ensure that 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 EPA particulate matter emissions standards for Tier 4 engines.

MM AIR-1.3: If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that meets U.S. EPA emission standards for Tier 3 engines that have CARB certified Level 3 Diesel Particulate Filters or equivalent diesel emission control devices that altogether achieve an 80 percent reduction in diesel particulate matter emissions.

MM AIR-1.4: Large stationary cranes shall be powered by electricity, and generators and welders using diesel fuel shall be limited to 200 hours over the entire construction period.

Implementation of both the identified Standard Permit Conditions, and MM AIR-1.1 through MM AIR-1.4 would reduce the infant cancer risk to 4.3 per one million, which is below the BAAQMD single-source threshold; therefore, community risk impacts from construction would be reduced to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Measures)]**

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

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site (consistent with the Downtown Strategy 2040 FEIR). The operations of the primarily residential project would not generate substantial emissions or odors. Thus, the impact would be less than significant. **[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 to address the policies the City of San José policies that relate to existing air quality conditions affecting a proposed project.

Operational Community Health Risk Impacts – New Residences

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure sensitive receptors introduced onto the project site are not exposed to substantial TAC emissions. The project would introduce new sensitive receptors to the project site, subject to air pollutants from East Santa Clara Street and three permitted stationary sources. Community risk impacts from combined sources upon the project site are shown in Table 4.3-5.

Table 4.3-5: Community Risk Impact to New Project Residences

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
East Santa Clara Street, 625 feet north	1.0	0.03	<0.03
Plant #104124 (Gas Station), 445 feet	0.2	--	<0.01
Plant #15267 (Generator and Boilers), 800 feet	0.3	0.03	<0.01
Plant #23479 (Generator and Pump),750 feet	0.2	<0.01	<0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>1.0*
Cumulative Total	1.7	<0.07	<0.06
BAAQMD Cumulative-Source Threshold	*>100*	*>0.8*	*>10.0*
Significance?	**No**	**No**	**No**

As shown, community risks would be considered acceptable pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2.

4.4 BIOLOGICAL RESOURCES

This section is based on an arborist report prepared for the project by Jake Minnick, ISA Certified Arborist in March 2017. This report is included as Appendix B to this Initial Study/Addendum.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

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

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

Migratory Bird and Birds of Prey Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[7] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

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

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

CDFW, 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.

CDFW Stream/Riparian Habitat

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

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. 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 Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect the City's urban forest. All trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope are considered ordinance size trees and require a tree removal permit for removal. The ordinance protects both native and non-native tree species. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

Riparian Corridor and Bird-Safe Building Policy 6-34

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

policies that may provide for riparian protection and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-Safe design guidance for buildings and structures includes avoiding large areas of reflective glass, transparent building corners, up-lighting and spotlights.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

General Plan Policies: Biological Resources	
Special Status Plants and Animals	
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
Migratory Birds	
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Community Forest	
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-21.6	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.
Community Design Policies – Attractive City	
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

4.4.1.2 *Existing Conditions*

The project site is located in a developed urban habitat of San José. Urban habitats include street trees, ornamental trees and landscaping, lawns, and ruderal vegetation. The original native vegetation and species of the area are no longer present at the project site. Rather, the site provides food and shelter for wildlife able to adapt to the modified urban environment. The project site is located within the Habitat Plan area and is designated as Urban-Suburban land.

No rare, threatened, endangered, or special-status species are known to inhabit the site. There are no undisturbed areas or sensitive habitats on the site, and the site itself does not contain any streams, waterways, or wetlands. The nearest waterway (the Guadalupe River) is located approximately 0.70 miles west of the project site. Because of its urban setting and isolation from larger undeveloped lands and riparian areas, the site does not function as a movement corridor for local wildlife. There is no potential for the project to impact these habitats and waters; therefore, they are not discussed further.

The project site is developed with two single-family houses and surface parking. Trees are located along the northern and eastern edges of the project site. An arborist report for the project was prepared in March 2017 (see Appendix B) and a total of 14 trees (a mix of Mexican Fan Palm, Jacaranda, Angel's Trumpet, Tree of Heaven, London Plane, and Black Locust) are located on or immediately adjacent to the project site's northern and eastern property line, including six ordinance sized trees (four Mexican Fan Palms, one Tree of Heaven, and one London Plane). The trees range in size from 10 to 28 inches in diameter at breast height. The project proposes to remove 10 trees on the project site (including six ordinance sized trees). Off-site trees on immediately adjacent properties would be protected and remain in place. Table 4.4-1 summarizes the trees in the project area.

Table 4.4-1: Trees On Site

Tree No.	Common Name	DBH	Health[1]	Ordinance Sized Tree	Trees to be Removed
1	Mexican Fan Palm	27.7	2	X	X
2	Mexican Fan Palm	23.0	2	X	X
3	Mexican Fan Palm	18.8	2	X	X
4	Jacaranda	12.2	2	X	X
5	Mexican Fan Palm	22.1	0	X	X
6	Angel's Trumpet	10.2	2		X
7	Tree of Heaven	27.1	2	X	X
8	London Plane	21.7	3	X	
9	Tree of Heaven	N/A	2		
10	Black Locust	N/A	1		
11	Tree of Heaven	N/A	2		
12	Tree of Heaven	N/A	2		
13	Tree of Heaven	N/A	3		
14	Tree of Heaven	N/A	2		

1. The health rating ranges from 0 (tree is dead) to 5 (tree is healthy, free of disease, and form typical of species)

4.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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 CDFW or USFWS?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

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

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?

The project site is comprised of two residential units and a paved and unpaved parking lot, devoid of significant vegetation. The site is not suitable for identified candidate, sensitive, or special-status species. The proposed project would have no impact on candidate, sensitive, or-special status species. **[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?

There are no undisturbed areas or sensitive habitats on the site, and the site itself does not contain any streams, waterways, or wetlands; therefore, impacts to any riparian habitat or other sensitive natural community would be less than significant**. [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?

See response to Checklist Question b). **[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?

While the project site is located in a highly urbanized environment, the existing trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

Impact BIO-1: Construction activities could result in the loss of fertile eggs, nesting raptors, or nest abandonment and would constitute a significant impact.

Mitigation Measure: In conformance with the MBTA, CDFW, and General Plan Policies ER-5.1 and ER-5.2, the following mitigation measures shall be implemented during construction to reduce and/or avoid impacts to nesting birds during construction:

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.

MM BIO-1.2: If tree removals and construction cannot be scheduled outside of the 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. 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, construction activities, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building, and Code Enforcement or Director's designee.

MM BIO-1.3: 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, Code Enforcement or Director's Designee prior to the issuance of any grading or building permit.

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

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

The project site and immediate vicinity currently contains 14 trees. The project proposes to remove seven trees, including six ordinance-sized trees, on the project site to facilitate the construction of the project. The project would include on-site landscaping and would be required to implement the following Standard Permit Conditions to reduce/avoid impacts to trees and meet City's Tree Removal Ordinance.

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.

Table 4.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed[1]	Type of Tree to be Removed[2]			Minimum Size of Each 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

[1] As measured 4.5 feet above ground level

[2] X:X = tree replacement to tree loss ratio

[3] Ordinance-sized tree

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

- 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.

As proposed and per the above Standard Permit Conditions, the project would be required to plant 33, 15-gallon replacement trees. The project proposes to plant 17, 24-gallon trees in accordance with the tree replacement requirements. With implementation of the above Standard Permit Condition, the Downtown Strategy 2040 FEIR determined that projects would have a less than significant impact on trees and not conflict with the City's Tree Ordinance. **[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?

Private development in the plan area in areas designated Urban-Suburban is subject to the Habitat Plan if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the participating cities;
- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development; and
- In Figure 2-5 (of the Habitat Plan), the activity is located in an area identified as Private Development is Covered, OR the activity is equal to or greater than two acres AND

    - The project is located in an area identified as Rural Development Equal to or Greater than Two Acres is Covered, or Urban Development Equal to or Greater than Two Acres is Covered OR

    - The activity is located in an area identified as Rural Development is not Covered but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied nesting habitat for western burrowing owl.

The proposed project is consistent with the activity described in Section 2.3.2 of the Habitat Plan and would require discretionary approval by the City. Consistent with the Habitat Plan, the project applicant shall implement the following standard permit condition.

Standard Permit Condition:

- The project is subject to applicable Santa Clara Valley Habitat Plan Coverage (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 SCVHP Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the Habitat Plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.5 CULTURAL RESOURCES

The historic resources discussion is based on a Historic Resource Evaluation (HRE) prepared by Archives & Architecture in September 2019 and a Historic Resources Project Assessment (HRPA) and Historic Preservation Plan prepared by TreanorHL in July 2020. The HRE, HRPA, and preservation plan can be found in Appendix C, Appendix D, and Appendix E of this report, respectively. The archaeological discussion is based upon a Literature Search completed by Holman & Associates in March 2019. A copy of the Archaeological Literature Review is on file at the Department of Planning, Building and Code Enforcement.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

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.

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

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

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.[8]

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.

City of San José

Historic Preservation Ordinance

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

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

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contract, and various land use and zoning incentives.

Envision San José 2040 General Plan

Various policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources. The following are applicable to the project.

[8] 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.

General Plan Policies - Cultural Resource	
Landmarks	
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Archaeology	
ER-9.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.3	Ensure that City, state, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.1.2 *Existing Conditions*

Buried Archaeological Resources

No Native American archaeological sites are recorded on the site or in the immediate vicinity. Recent monitoring was conducted at 156 East St. John Street for a housing project at the southeast corner of East St. John Street and North 4th Street and across East St. John from the proposed project. Two

paleosols (a stratum or soil horizon that was formed as a soil in a past geological period) lay beneath the project site, with the upper one most pertinent to the current project. The upper paleosol extended into East St. John Street to the north and it continued beyond that project's footprint. The paleosol was 2.5 to 3.5 feet below the current surface and consisted of variegated black and tan silty clay. A 20-foot-long profile was exposed along the edge of East St. John Street and a pestle was recovered. No other artifacts or ecofacts were identified. This suggests that there is a moderate to high potential for Native American archaeological resources within the current project area.

Buried Historic-Era Resources

Historic-era maps of the project site and area were examined to identify the potential for historic archaeological resources. By 1884, six single-story houses were constructed at the project site. These houses were clustered near the center of the block with a small building near the southwest corner. All but one house and the building near the corner had rear outbuildings including one with a water tank. By 1891, front or rear additions were added to these houses and additional houses were constructed in the southern part of the project site. A total of 10 houses faced North 4th Street, with one facing East St. John Street. Rear outbuildings were still present, but some were moved to accommodate the then shallower rear lot line.

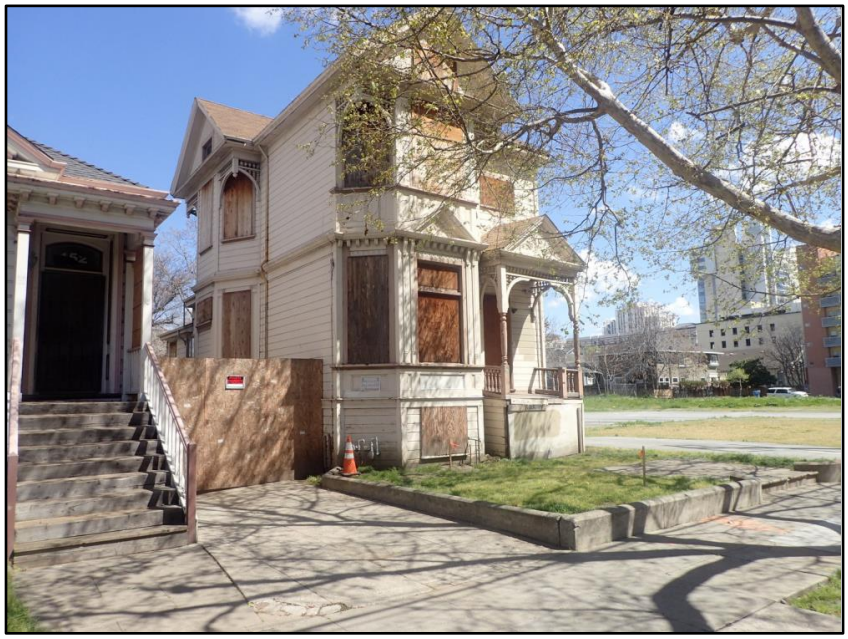
Based on the type of housing present from 1884 onward, there is a high potential for intact historic-era archaeological buried deposits within the project area.

Buildings on the Project Site

The buildings on the project site were evaluated for historic significance based on NRHP, CRHR, and the City of San José designation criteria. The discussion below is a summary of the evaluation findings. The full analysis, including Department of Parks and Recreation forms (DPR 523) are provided in Appendix C.

146 North 4th Street (APN: 467-20-021)

The house at 146 North 4th Street (currently unoccupied) is a distinctive Queen Anne design dating from the 1890s. The house has a steep gabled roof with front and side facing gable ends, sided and checkerboard paneling.[9] The rear is hipped, and the roof is covered with composition shingles.[10] The roof fascias are covered with gutters or are missing.[11] Soffits are trimmed at their inner ends above a wide flat board frieze that frames the upper portions of the wall and windows.



The area surrounding North 4th Street in downtown San José represents a diverse mix of uses and buildings ranging from San José's period of Horticultural development (1868 to 1918) through San José's period of Industrialization and Urbanization (1945 to 1991). This area was redeveloped with a variety of commercial service and residential uses that lack any physical similarity in building type. The physical setting is, therefore, disjointed. Although it has lost much of its original neighborhood context due to demolition of residences to the south and across North 4th Street, it retains some historical context based on its relationship to residential buildings to the north and east.

146 North 4th Street and its grouping do not represent significant patterns of development, and would not qualify under Criterion (1) of the CRHR.. The building is not directly associated with any persons known to be historically important. The earliest associated person with this structure is Mary Bosodena, who was the original owner with her husband, and made the property available as a rental after his death. None of the persons associated with the house (including later renters and owners) have been found to be historically significant; therefore, the building does not qualify for the CRHR under Criterion (2), as it is not associated with any persons of significance. The building's architecture is distinctive, even though the original context is diminshed. The house is more than 120 years old and is a distinguished example of Queen Anne residential architecture of the early to mid-1890s. It retains a high level of integrity of its key character-defining features; therefore, the building would qualify for the CRHR under architecture under Criterion (3).

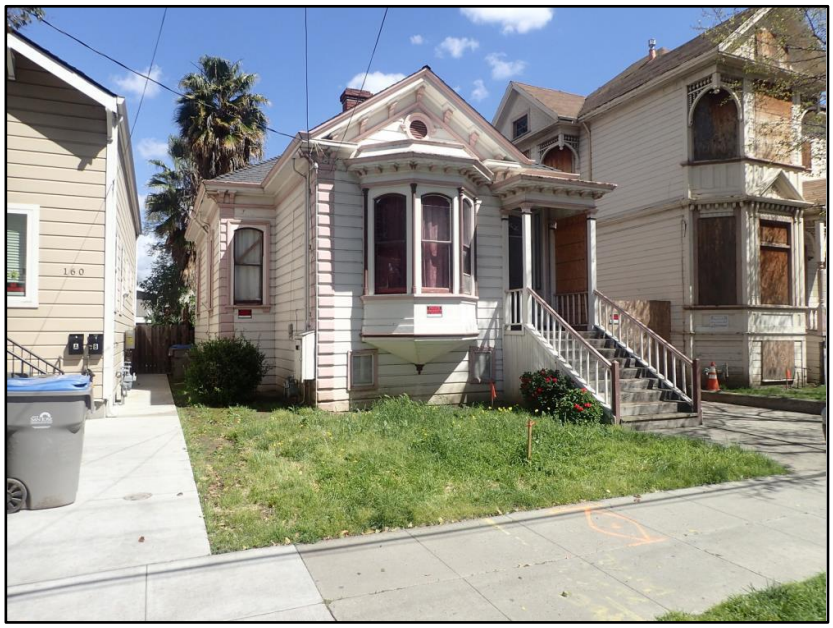
Under the City of San José landmark designation criteria, which is used to consider historical significance for properties within the City of San José (consistent with Municipal Code Chapter 13,

[9] A gable is the generally triangular portion of a wall between the edges of intersecting roof pitches.
[10] Hipped roof all sides slope downwards to the walls.
[11] Fascia is an architectural term for a vertical frieze or band under a roof edge, or which forms the outer surface of a cornice. The finished surface below the fascia and rafters is called the soffit or eave.

Section 13.48.110), the property is eligible for designation under Criteria 6 and 8 as a Candidate City Landmark. Eligibility is based upon the finding that this property has special historical, architectural, and aesthetic interest and value. Its designation as a San José City Landmark would conform with the goals and policies of the General Plan because the property:

- (6) embodies distinguishing characteristics of the Queen Anne - style in local residential architecture; and
- (8) embodies elements of architectural design, detail, materials, and craftsmanship which represents a significant architectural innovation that took place locally in the 1890s and which this example remains fairly unique today in greater San José.

152 North 4th Street (APN: 467-20-022)



The house at 152 North 4th Street is a distinctive Queen Anne design from the 1880s. The house has a moderately steep gabled and hipped roof with front facing gable and hipped ends at the other elevations. The roof is covered with composition shingles. Soffits are trimmed at their inner ends above a wide flat board frieze that frames the upper portions of the wall and windows. Some corbels are placed at the corners.[12] At the center is this gable end is an ornate circular window.

Although it has lost much its original neighborhood context, the house retains some historical context based on its relationship to other residential buildings to the north, south, and east.

Similar to 146 North 4th Street (and as described previously), the building at 152 North 4th Street and its grouping do not represent significant patterns of development, and as such would not qualify for the CRHR under Criterion (1). The building is not directly associated with persons known to be historically important. The earliest association is with Thomas Bethell, who was the superintendent of the Electric Improvement Company. During his ownership and later, the building served as a rental property. None of the persons associated with the house have been found to be historically significant; therefore, the building does not qualify for the CRHR under Criterion (2). The architecture of the building is distinctive in its own right, though the surrounding historic context is diminished. The house is approximately 140 years old and is an early and distinguished example of Queen Anne residential architecture from the early to mid-1880s and retains a high level of integrity

[12] A corbel is a projection jutting out from a wall to support a structure above it.

of its key character-defining features; therefore, the building would qualify for the CRHR under Criterion (3).

Under the City of San José landmark designation criteria, the property would be eligible for designation as a Candidate City Landmark under criteria 6 and 8 due to the building's historical, architectural, and aesthetic interest and value. Designation as a San José City Landmark would conform with the goals and policies of the General Plan because (similar to the above described structure at 146 North 4th Street) the property:

- (6) embodies distinguishing characteristics of the Queen Anne - style in local residential architecture; and
- (8) embodies elements of architectural design, detail, materials, and craftsmanship which represents a significant architectural innovation that took place locally in the 1880s and which this example remains fairly unique today in greater San José.

Buildings Within 200 Feet of Project Site

Theproject site is located adjacent to the western edge of a mixed-use, dense, neighborhood with many buildings that are more than 50 years old. Among the properties within 200 feet of the project boundaries (see Figure 4.5-1), five are currently listed on the San José Historic Resources Inventory. Two of the five properties are located in the St. James Square Historic District; one of the properties contains a contributing structure and one of the properties contains non-contributing structures. Another two of the the five properties are listed as Structures of Merit, but were determined to be Candidate City Landmarks. The fifth property wasdemolished and redeveloped with a contemporary six-story apartment complex. Five other properties appear eligible for listing in the San José Historic Resources Inventory based on the reconnaissance survey conducted as a part of Appendix C; two as Candidate City Landmarks and three as Structures of Merit. These structures are shown in the figure below and are summarized in Table 4.5-1.

HISTORIC STRUCTURES WITHIN 200 FEET OF THE PROJECT SITE | FIGURE 4.5-1

Table 4.5-1: Historic Status of Structures within 200 Feet of the Project					
	Building Name	**Address**	**Resource Name**	**Year Built**	**Status**
1	Donner House Lofts	158 East St. John Street	Donner House site	demolished	--
2	Single family residence	99 N 5th Street	Roberts House and Pekin Herb Company	Ca. 1910	E-CCL
3	Duplex	165-167 E St. John Street	Sarah Miller rental duplex	1909-1910	E-SM
4	Multi-family	101 N 5th Street	Miller House	1880s	E-CCL
5	16-unit Apartments	129 N 5th Street	None	1965	None
6	Duplex	137 N 5th Street	None	1970s	None
7	Single-family residence	145 N Street	Stewart House	1888	CS, E-CCL
8	Multi-family residence	153 N 5th Street	Ash House	1929	None
9	6-unit Apartments	157 N 5th Street	None	1960	None
10	8-unit multi-family	161-173 N 5th Street	Bungalow Court	1939-1942	E-SM
11	Shires Apartments	180 N 4th Street	Shires Apartments	1964	E-SM
12	Duplex	160 N 4th Street	Lyman House	Ca. 1870s	None
13	San Jose Ballet	157 N 4th Street	San Jose Ballet School	1954	SM, E-CCL
14	WeWork	152 N 3rd Street	Eagles Hall (façade only)	1909-1985	CLD-C
15	Offices	127 N 4th Street	Johns Diaper Service	*Ca*. 1934	None
16	Retail and offices	115 N 4th Street	Bank of America Clearing House	1956	None
17	Vacant and storage	77 N 4th Street and 128 E St. John Street	Loomis Armored Car Service / French Laundry, Service station	Pre-1948	CLD - NC
(CL) City Landmark, (E-CCL) Eligible Candidate City Landmark, (E-SM) Eligible Structure of Merit, (CS) Contributing Structure, (SM) Structure of Merit, (CLD-C) Contributing to City Landmark District, (CLD-NC) Non-contributing to City Landmark District, (None) none.					

The larger residential neighborhood to the east, approximately 300 feet from the project site, has not been the subject of a detailed historic resources survey.

4.5.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory or a previously unidentified property that is eligible for City Landmark designation as defined in Chapter 13.48 of the City's Municipal Code.

Similar to the Downtown Strategy 2040 FEIR Cultural Resources analysis, the proposed project would result in a less than significant cultural resources impact, as described below.

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

Potential Relocation Impacts

The two houses located on the project site at 146 North 4th Street and 152 North 4th Street are considered eligible for the CRHR under Criterion 3 and as Candidate City Landmarks under Criteria 6 and 8 for their architectural significance. The houses retain substantial historic integrity in accordance with the National Register's seven aspects of integrity. The two houses retain their scale and feeling through their massing and detailing, and their associations with late nineteenth century architecture. The houses have a distinctive character and composition that is expressed through their materials, workmanship and design. However, the historic setting of the houses has changed significantly from their previously residential setting and has been compromised. The one neighboring house to the north has been altered, and the other surrounding properties are either vacant or contain modern commercial and/or high-rise buildings. In summary, the two houses currently retain integrity of design, materials, workmanship, feeling, association and location, but have lost integrity of setting. The proposed relocation of the two houses would result in the loss of integrity of location.

The proposed relocation of the two houses was assessed under the historic integrity framework outlined by the National Register which says: "A moved property significant under Criterion C (architecture) must retain enough historic features to convey its architectural values and retain integrity of design, materials, workmanship, feeling, and association." If materials, workmanship, and design are not preserved as part of the project, a significant impact under CEQA would occur. The project proposes to relocate the two houses to a receiver site that would place the houses in a more compatible historic setting for the architecturally significant houses than their current setting which has substantially changed over time. The receiver site on North 5th Street is adjacent to the rear of the historic locations of the houses on North 4th Street; therefore, the properties would regain their residential setting and association with the neighborhood they were historically located within. No change would occur to the houses' integrity of design, materials, workmanship, feeling, or association. The integrity of setting of the two houses would be reinstated with their proposed placement in the residential neighborhood on North 5th Street with the same pattern of historical development as their current location on North 4th Street. Therefore, there would be no significant adverse impact to the architecturally significant houses because the only aspect of integrity that would be altered is location. To ensure that the two historical resources under CEQA do not lose their historic integrity, the mitigation measures outlined below would be required.

Impact CUL-1: Relocation of the two historic residences could result in the loss of historical integrity.

Mitigation Measures: To ensure the retention of the buildings' design, materials and workmanship, the following mitigation measures shall be incorporated. With the incorporation of the measures listed below, any impacts to historic resources would be mitigated to a less than a significant level.

MM CUL-1.1: Prior to the issuance of any demolition or building permits, whichever occurs first, the project applicant shall prepare a Relocation and Rehabilitation Plan that fully outlines and documents the relocation and rehabilitation plans for the two architecturally significant houses for the proposed relocation site on North 5th Street and the proposed schedule of such work. The plan shall demonstrate compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, which includes the preservation of the character-defining features of the historic houses. The relocation and rehabilitation shall be carried out prior to issuance of an occupancy permit for the proposed high-rise housing component of the project. The Relocation and Rehabilitation Plan shall be reviewed and approved by the City's Historic Preservation Officer or designee prior to issuance of any demolition or building permits, whichever comes first, for the project.

MM CUL-1.2: Prior to relocation of the two architecturally significant houses, the project applicant shall retain a qualified historic building mover and a qualified Historic Architect to document the existing conditions and features of the two buildings and stabilize the structures prior to relocation. Documentation of the existing building conditions shall be reviewed and approved by the City's Historic Preservation Officer or designee prior to issuance of any demolition or building permits, whichever comes first, for the project.

MM CUL-1.3: Upon completion of the buildings' rehabilitation, a qualified Historic Architect shall prepare a Completion Report (including photographs) to document the level of success in meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties and in preserving the character-defining features of the identified historic resources. The Completion Report shall be submitted to the City's Historic Preservation Officer or designee and the Director of Planning, Building, and Code Enforcement or Director's Designee for review and approval once rehabilitation of the two houses is complete and prior to issuance of occupancy permits for the high-rise housing component of the project.

With the incorporation of MM CUL-1.1 through MM CUL-1.3, impacts to the on-site historic resources would be mitigated to a less than a significant level. **[New Less than Significant Impact with Mitigation Incorporated]**

Impacts to Adjacent Historic Resources

A project would cause substantial adverse change in the significance of historical resources within 200 feet of the project site if it resulted in the loss of integrity of those surrounding historical resources so they could no longer convey their significance. If a resource were to lose its historic integrity in a way that impacts its significance and eligibility as a City Landmark (or Candidate City Landmark), or its eligibility for listing on the CRHR, a project would have a significant impact on cultural resources.

In order to evaluate any potential adverse change to identified historical resources (see Table 4.5-1), the project was evaluated for conformance with the City's 2004 Draft San José Downtown Historic Design Guidelines.[13] Chapter 5 of the guidelines addresses infill development that interfaces with historic resources located outside the designated Downtown Commercial Historic District and St. James Square Historic District, but within the Downtown Core located within 100 feet of City Landmarks and a Contributing Structure to a historic district in Downtown Core.

2004 Draft San José Downtown Historic Design Guidelines

Lot Patterns

Within 200 feet of the project site is a mix of traditional narrower residential lot parcels along North 5th Street and larger combined parcels along North 4th Street. The proposed project would combine five parcels along North 4th Street into one single large parcel, consistent with lot patterns along North 4th Street. The proposed apartment building would be set back approximately five feet from the south property line, 10 feet from the east property line, 14 feet from the northern property line, and six feet from the western property line.

The rear of the proposed project is adjacent to the rear of historic lot patterns along North 5th Street and single-family houses. The proposed apartment building includes a solid five story podium along the rear (eastern) property line that contains one ground level opening (an emergency exit). Three

[13] The 2004 Draft San José Downtown Historic Design Guidelines were never formally adopted by the City of San José; however, they are the only related guidelines in the project area and were used to inform the historic resources analysis.

residential towers above this podium are articulated with recessed central sections and color changes. For this reason, the proposed building would not be compatible with this guideline.

Massing

No previously designated historic buildings are located on the east side of North 4th Street. The west side of North 4th Street includes parcels that were previously identified on the San José HRI; however, only the one-story 157 North 4th Street building faces the project site. The North 5th Street area features smaller single-family houses with hipped or gabled roofs, and a few mid-twentieth century commercial and residential buildings with larger footprints and flat roofs. Only one property, the two-story single-family house at 145 North 5th Street is identified as a "Contributing Site/Structure" on the San Jose HRI. The proposed new construction is adjacent to two low-rise residential buildings at 160 North 4th Street and 165-167 East St John Street; however, neither is currently considered a historic resource for the purpose of this evaluation since they are not listed on the HRI.

The proposed 25-story building is significantly taller than the overall heights of the historic and contemporary buildings within the surrounding area. The massing is articulated above level five where the footprint becomes an "E" up to the roof. Two courtyards are at the east side of the fifth floor. The new building provides a transitional podium level at the east property line: the first five floors are set back 10 feet from the property line and the towers are set back five feet from the podium level. The north façade is also set back 11 to 14 feet from the property line, allowing for window openings above the podium level. Even though the new building is broken into smaller masses on the east side, the overall height, massing, and scale of the new building are far greater than the surrounding buildings and properties identified on the San Jose HRI.

The proposed massing of the development would dominate and overwhelm the existing single-family houses to the east; therefore, the proposed project would not be compatible with the Massing guideline.

Facades

The North 4th Street does not have a historic façade pattern. Developed over time in a variety of styles and scales, the existing buildings do not share any consistent design features. The traditional residential facades along North 5th Street are more consistent in terms of patterns and proportions but only the rear façade of the new building faces this street. East St. John Street does not have a recognizable façade pattern to the west, but residential facades to east provide a consistent scale and pattern. The proposed North 4th Street façade is not analyzed under this guideline since this side of the block does not have a consistent street pattern. The proposed East St. John Street façade features the podium level with commercial spaces and the residential tower above. Immediately adjacent to two single-family houses to the east, the podium level of this façade has glazed storefronts at the lower floors. A decorative concrete wall is at the southeast corner, next to the dwelling at 165-167 East St. John Street. A metal screen and metal grilles clad levels two through four. Above the podium level, the residential tower has punched windows and projecting balconies. The proposed glazed storefronts, the metal cladding, or the façade of the residential tower are not compatible with the existing patterns, materials, and details of the residential facades on East St. John Street. The proposed commercial facades of the podium level are more in line with the recent commercial

developments in the area, especially the office and multi-family residential buildings to the east. The new building is contemporary in design, not proposing facades with a false historical appearance. Overall, the proposed project is not compatible with the Facades guideline.

Corner Elements

The project area does not have a consistent pattern of historic corner elements; therefore, this design guideline is not applicable to the proposed project.

Rear Facades

The rear facades of the North 5th Street side of the subject block are residential in scale, featuring windows and doors opening to rear yards. On some parcels, a side driveway provides vehicular access to the yard. At the podium level, the proposed rear façade has a 16-foot-tall decorative concrete garage wall on the first level and has painted metal grilles on the second, third, and fourth garage floors (up to 49 feet). A row of trees and shrubs separate the proposed development from the existing properties to the east. Separated by two landscape courtyards, three residential towers above the garage have rhythmically placed punched windows. The proposed blind walls and grilles at the lower floors and stacked punched openings on the upper floors are not compatible with the traditional rear facades in the surrounding area. The vehicular entrance to the new building is from North 4th Street. The pedestrian entrance to the residential lobby and the retails spaces are directly from North 4th and East St. John streets, which would be compatible with the existing patterns. Overall, the proposed project is not compatible with the Rear Facades guideline.

Entries

Even though this guideline is not completely applicable since the existing entries on the North 4th and East St. John streets are not consistent; the proposed project does provide multiple pedestrian entries directly from both streets which is compatible with the pedestrian orientation of the subject block. The proposed wide sidewalks and projecting awnings at the street façades also help to provide a compatible pedestrian scale. The proposed project is generally consistent with applicable components of this guideline.

Exterior Materials

The project area contains a variety of exterior materials, such as stucco, wood siding, concrete, brick, shingle roofs, red-tile roofs, and wood- or metal-sash windows. The proposed apartment building would primarily use concrete panels, metal screens and grilles, and window glazing. These exterior materials would be consistent with the historical materials in the project area; therefore, the proposed building would be consistent with this guideline.

Vehicular and Pedestrian Access

Vehicular access in the project area is typically at the perimeter of blocks. Driveways to garages or rear yards are along the street. Pedestrian access is also typically along the sidewalk. The proposed design follows similar vehicular and pedestrian access patterns; therefore, it is compatible with the Vehicular and Pedestrian Access.

As described in the above analysis, the proposed project is in conformance with the Entries, Exterior Materials, and Pedestrian and Vehicular Access guidelines for infill in the 2004 Draft San José Downtown Historic Design Guidelines. The Corner Elements guideline is not applicable. The proposed project is not in conformance with the Lot Patterns, Massing, Facades, and Rear Facades design guidelines. The 2004 Draft San José Downtown Historic Design Guidelines address new construction in the Downtown Core when project sites are within 100 feet of a City Landmark or a Contributing Structure in a historic district. The project site is not within 100 feet of any City Landmarks (158 East St. John Street was demolished). The closest City Landmark and Contributing Structure in the St. James Square Historic District is an addition to the rear of the Scottish Rite Temple located across North 4th Street at 196 North 3rd Street, which is more than 100 feet from the project site. Even though the proposed project only partially complies with the 2004 Draft San José Downtown Historic Design Guidelines, the proposed construction of the 23-story, mixed-use building would not physically demolish, destroy or materially alter in an adverse manner those physical characteristics of the identified adjacent historical resources that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in the California Register or the San José Historic Resources Inventory. Therefore, the proposed project would not result in substantial adverse change to any off-site historical resources.

Physical Impacts to Off-Site Historical Resources

The 2019 historic resource evaluation prepared by Archives & Architecture (see Appendix C) identified historical resources within 200 feet of the project site. Construction activities associated with the project could result in physical impacts those adjacent historical resources near the project perimeter, including the two houses proposed to be moved to the receiver site. Such activities include the relocation process on North 5th Street, the operation of heavy machinery and drilling equipment if used, as well as staging, and storage of materials in proximity to historical resources. Construction activities could damage buildings through destabilization, or physical vibration, which could result in a significant impact to historical resources.

Impact CUL-2: Construction of the proposed project could result in physical damage to nearby historical resources and would constitute a significant impact.

Mitigation Measure: In addition to MM NOI-1, the mitigation measures listed below shall be required during all phases of construction to reduce impacts to a level of less than significant.

MM CUL-2.1: Preconstruction documentation of nearby historical resources shall be prepared prior to issuance of any demolition or building permits, whichever comes first, for the project. Preconstruction documentation includes a conditions assessment report and Historical Resources Protection Plan. Prior to construction, a qualified Historic Architect who meets the Secretary of the Interior's requirements, shall conduct an existing visual conditions study of the nearby historic resources as is feasible. The purpose of the existing conditions study would be to establish the baseline condition of the buildings prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the historical resources that conveys their significance and justify their listing in the California Register of Historic Places (CRHP) and/or as a San José Landmark, Candidate City

Landmark. The conditions study shall be reviewed and approved by the City of San José's Historic Preservation Officer or designee.

- A qualified geologist, or other professional with expertise in ground vibration and its effect on existing buildings, shall prepare a study of the potential of vibrations caused by excavation and construction activities associated with the proposed project. Based on the results of the study, specifications regarding the restriction and monitoring of pile-driving and other vibratory equipment shall be incorporated into the construction contract to effectively manage the mean and methods of construction pertaining to this issue as it relates to potential environmental impacts. Any initial pile-driving shall be monitored and if vibrations are above threshold levels, modifications shall be made to reduce vibrations to below established levels. A copy of the study, contract specifications, and monitoring reports shall be provided to the City's Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.
- In addition to the conditions study, a qualified Historic Architect who meets the Secretary of the Interior's requirements shall prepare a Historical Resources Protection Plan, incorporating documentation from the conditions survey identified above. The purpose of the Historical Resources Protection Plan is to establish procedures to protect nearby historical resources from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The Historical Resources Protection Plan shall be reviewed and approved by the City of San José's Historic Preservation Officer or designee The project sponsor shall, implement the Historical Resources Protection Plan prior to issuance of any demolition or building permits, whichever comes first, for the project.
- The project sponsor shall ensure the contractor follows the Historical Resources Protection Plan while working near the adjacent historical resources. At a minimum, the plan shall include:
    - guidelines for operation of construction equipment adjacent to historical resources;
    - requirements for monitoring and documenting compliance with the plan; and
    - education/training of construction workers about the significance of the historical resources around which they would be working.
- The Historic Architect shall make periodic site visits to monitor the condition of the nearby historical resources, including monitoring of any instruments, such as crack gauges, if necessary, per approval of nearby property owners, or reviewing vibration monitoring required by other construction monitoring processes required under the City's permit processes. Site visit reports and documents shall be provided to the City's Director of Planning, Building, and Code Enforcement

or Director's designee on a quarterly basis, or other frequency as required by the Planning Division.

- The Historic Architect shall consult with the City's Director of Planning, Building and Code Enforcement or Director's designee and a structural engineer if any physical problems with character-defining features are discovered. If in the opinion of the Historic Architect, substantial adverse impacts related to construction activities are found during construction, the Historic Architect shall inform the City's Director of Planning, Building and Code Enforcement or Director's designee and the project sponsor or sponsor's designated representative responsible for construction activities. The project sponsor shall respond accordingly to the Historic Architect's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historical resources. The monitoring team shall prepare site visit reports for submittal to the City's Director of Planning Building and Code Enforcement or Director's designee.
- If in the event that damage to nearby historical resources occurs during construction, the City's Director of Planning, Building and Code Enforcement or Director's designee shall be notified. The damage shall be repaired in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and any damaged character-defining features shall be restored in a manner that does not affect the eligibility of the building for listing in the CRHR or the San José Historic Resources Inventory. Plans for repair shall be submitted to the City's Historic Preservation Officer or designee for review and approval. Documentation of final repairs shall also be submitted to the City's Historic Preservation Officer or designee.

With implementation of MM CUL-2.1 stated above and MM NOI-1.1, off-site physical impacts on adjacent historical structures, including the two buildings proposed for relocation, would be less than significant. **[New Less than Significant Impact with Mitigation Incorporated]**

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

Native American sites in the area have been identified on valley terraces typically within a quarter mile of various historic channels of the Guadalupe River and Coyote Creek. Given the location of the project site, approximately 0.7 miles from the Guadalupe River itself, there is a moderate to high potential for undiscovered archaeological and historic resources on the site. The Archaeological Literature Search prepared for the proposed project concluded that no archaeological sites have been recorded within or adjacent to the project site. The site, however, has not been previously surveyed and the site has high potential for buried archaeological deposits.

The following Standard Permit Condition, consistent with Downtown Strategy 2040 FEIR, shall be applied to the project to reduce and avoid impacts to archaeological resources.

Standard Permit Condition:

- 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 in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative 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.

The Downtown Strategy 2040 FEIR concluded that with implementation of existing regulations and adopted General Plan policies, new development under the Downtown Strategy 2040 would have a less than significant impact on subsurface prehistoric and historic resources. Within implementation of the above Standard Permit Condition, construction of the proposed project would have a less than significant impact on unrecorded 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?

Policy ER-10.1 of the General Plan states that for proposed development sites that have been identified as archaeologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. As discussed above in Checklist Question b), no archaeological sites have been recorded within or adjacent to the project site. The site, however, has not been previously surveyed and the site has high potential for buried human remains. Grading and site preparation could result in the disturbance of as yet unidentified archaeological resources, including human remains.

The following Standard Permit Conditions shall be applied to the project to reduce and avoid impacts to human remains:

Standard Permit Conditions:

- Human Remains. 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. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the 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 will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will 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 mediation by the NAHC fails to provide measures acceptable to the landowner.

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

With implementation of the above Standard Permit Conditions, impacts to unknown subsurface cultural resources would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

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

State

Renewables Portfolio Standard Program

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

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.[14] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[15]

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, 2017, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

[14] California Building Standards Commission. "Welcome to the California Building Standards Commission." Accessed February 6, 2018. http://www.bsc.ca.gov/.
[15] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed March 9, 2022. 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.[16]

City of San José

Climate Smart San José

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

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

Sustainable City Strategy

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

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted 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

[16] California Air Resources Board. "The Advanced Clean Cars Program." Accessed September 14, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

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 electric vehicle (EV) charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

Municipal Code

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

Envision San José 2040 General Plan

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

General Plan Policies – Energy	
Green Building Policy Leadership	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Energy Conservation and Renewable Energy Use	
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.
Water Conservation and Quality	
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.
Reduce Consumption and Increase Efficiency	
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best

General Plan Policies – Energy	
	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.
Responsible Management of Water Supply	
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
Water Conservation	
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
Water Recycling	
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
Transportation	
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

4.6.1.2 *Existing Conditions*

The project site is developed with two vacant, single-family houses and surface parking. This analysis assumes that the project site currently does not use any energy.

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

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

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?

Construction

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited, however, there are several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD best management practices (BMPs) detailed in Section 4.3 Air Quality would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage approximately 75 percent of construction waste as part of its LEED certification and compliance with the City's Construction and Demolition Diversion Program.

Energy is consumed during construction due to the use of fuels and building materials necessary for the construction of new buildings. However, energy would not be wasted or used inefficiently by construction equipment. With implementation of the air quality-related BMPs, the energy impacts from construction and development would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

The project proposes to construct a 298-unit apartment building with approximately 8,423 square feet of ground floor retail space. Operation of the proposed project would consume energy (in the form of

electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Additionally, gasoline would be used for vehicle trips to and from the project site. Table 4.6-1 shows the estimated energy use of the proposed project.

Table 4.6-1: Projected Annual Energy Use of Proposed Project[1]		
Electricity Use (kWh)	**Natural Gas Use (therms)**	**Gasoline (gallons)[2]**
2,004,227	25.96	98,358
Source: Illingworth & Rodkin, Inc. 4th and St. John Mixed-Use Student Housing Project Air Quality & Greenhouse Gas Assessment. July 18, 2019.		
[1] The project's energy use shown represents the mitigated project.		
[2] Based on average fuel economy of 24.9 miles per gallon. EPA. 2018 EPA Automotive Trends Report. March 2019.		

The project is consistent with planned growth in the Downtown Strategy 2040. The Downtown Strategy 2040 FEIR found all energy-related impacts from project implementation to be less than significant, therefore, the proposed project would not result in greater energy impacts than the Downtown Strategy 2040. **[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?

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

The nearest light rail station to the project site is located approximately 800 feet to the west in St. James Park. The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Additionally, the project would provide 426 bicycle parking spaces on-site to incentivize bicycle riding. By reducing single-occupancy traffic trips and including green design measures to achieve LEED certification, the proposed project would comply with existing state energy standards. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7 GEOLOGY AND SOILS

4.6.3 Environmental Setting

4.6.3.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Paleontological Resources Regulations

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

City of San José

City of San José Policies

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

Envision San José 2040 General Plan

The following General Plan policies are applicable to the project and have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards.

General Plan Policies: Geology, Soils, and Seismic Hazards	
Emergency Management	
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
Seismic Hazards	
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-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

General Plan Policies: Geology, Soils, and Seismic Hazards	
Geologic and Soil Hazards	
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 un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
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 soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.6.3.2 *Existing Conditions*

Regional Geology

The project site is located in the Santa Clara Valley, an alluvial basin bounded by the Santa Cruz Mountains to the west, the Hamilton/Diablo Range to the east, and the San Francisco Bay to the north. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated the area. Sediments of the Santa Clara Valley are composed of water-bearing Plio-Pleistocene and Upper Quaternary sediments, which are underlain by older non-water bearing rocks. The Upper Quaternary sediments consist of up to 1,000 feet of poorly sorted gravel, sand and clay, which were deposited in alluvial fan and river delta environments.

Site Geology

Soils

The project site is approximately 135 feet above mean sea level and gently slopes to the northeast. The project site is underlain by soils of the Urbanland-Campbell complex of zero to two percent

slopes.[17] These soils are clay alluvium soils derived from metamorphic or sedimentary rock. Urbanland-Campbell complex soils are moderately well drained, and exhibit moderate shrink-swell behavior (i.e., expansive behavior) towards the surface and have very high shrink-swell behavior with greater depth. Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavement, and structures found on shallow foundations. There are no unique geologic features on or adjacent to the project site. Due to the flat topography of the project site, the potential for erosion or landslide on or adjacent to the site is low.

Groundwater

Depth to shallow groundwater has historically been encountered at approximately 14 feet below grade.[18] Ground water flows to the northwest, according to the topography. Ground water elevations and direction of flow can be affected by factors including precipitation, stream flow, irrigation practices, and ground water pumping.

Seismicity

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone[19] or in a Santa Clara County Fault Hazard Zone[20] and no active faults have been mapped on-site. Therefore, the risk of fault rupture at the site is low. Faults in the region are, however, capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would occur at the project site during a major earthquake on one of the nearby faults.

Liquefaction

During ground shaking, such as during earthquakes, cyclically induced stresses may cause increased pore water pressures within the soil voids, resulting in liquefaction. The project site is located within a state-designated and Santa Clara County liquefaction hazard zone.[21,22]

Lateral Spreading

The project site is relatively flat and is not adjacent to a creek or any other unsupported face. For these reasons, the potential for lateral spreading is low.

Paleontological Resources

Geologic units of Holocene age are generally not considered sensitive for paleontological resources. More recent Holocene sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater

[17] Natural Resource Conservation Service. "Web Soil Survey" Accessed February 22, 2019. https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx.
[18] Ibid.
[19] California Department of Conservation. "Department of Conservation Map Server". Accessed March 9, 2022. https://maps.conservation.ca.gov/geologichazards/.
[20] Santa Clara County. *Santa Clara County Geologic Hazard Zones*. Map. October 26, 2012.
[21] California Department of Conservation. "Earthquake Zones of Required Investigation". Accessed January 21, 2019. https://maps.conservation.ca.gov/cgs/EQZApp/app/.
[22] Santa Clara County. "Geologic Hazard Zones". Accessed January 21, 2019. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373.

than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Based on the underlying geologic formation of the project site, the Downtown Strategy 2040 FEIR found the project site to have a high sensitivity (at depth) for paleontological resources.

4.6.4 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Section 1803.5.3 of the CBC, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

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

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?

The proposed project is located within a State of California Liquefaction Hazard Zone and near existing active faults that can cause substantial ground shaking. Consistent with the General Plan and current standard practices in the City of San José, the project proposes to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

With implementation of the above Standard Permit Conditions, the proposed project would be engineered to withstand minor earthquakes without damage and major earthquakes without collapse and would not exacerbate existing geologic conditions on adjacent sites. **[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 would be required for demolition of the existing surface parking lots, relocation of the single-family houses, and construction of proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. Implementation of erosion control measures, in accordance with these policies and the 2040 General Plan policies and regulations, would prevent substantial erosion and siltation during site development activities. Because the project would comply with all applicable policies and regulations to prevent erosion, implementation of the proposed project would have a less than significant soil erosion impact.

Demolition and construction on the project site would temporarily increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project would be required to meet the following Standard Permit Conditions consistent with the General Plan policies.

Standard Permit Conditions:

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

With implementation of the Standard Permit Conditions and compliance with the City's grading ordinance, construction of the proposed project would have a less than significant impact. **[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?

The project site is located in an area of moderate to high expansion potential, moderately low to low potential for vertical and lateral ground failure, and very strong ground shaking during an earthquake. As discussed under Checklist Question a), the proposed project would be constructed in compliance with the CBC and development of the project site would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

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 project site is located on expansive soil as defined in Section 1803.5.3 of the CBC. In conformance with the General Plan and current practices in the City of San José, the project shall implement the following Standard Permit Condition to reduce and/or avoid impacts related to expansive soils

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

With implementation of the above Standard Permit Condition, the proposed project would result in a less than significant impact from expansive soils. **[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 project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site will not need to support septic tanks or alternative wastewater disposal systems. **[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?

While pile driving on-site would reach a maximum depth of up to 80 feet, it is improbable that paleontological resources would be discovered because no paleontological resources have been discovered in this area of San José. The project, however, would implement the following Standard Permit Conditions to reduce potential impacts to paleontological resources.

Standard Permit Condition:

- Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

With implementation of the above Standard Permit Condition, potential impacts to paleontological resources would be reduced to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.8 GREENHOUSE GAS EMISSIONS

This section is based on the greenhouse gas (GHG) assessment prepared for the project by Illingworth & Rodkin, Inc. in July 2019, and the project specific 2030 Greenhouse Gas Reduction Strategy Compliance Checklist. These reports are included as Appendix A and Appendix F to this Draft EIR, respectively.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

State

Global Warming Solutions Act

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

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO2e.

Senate Bill 375

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

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-

causing (criteria) pollutants and GHG emissions into a single coordinated set of requirements for model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[23]

Regional

Bay Area 2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

City of San José

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10), requiring a 75 percent reduction in construction waste
- Wood Burning Ordinance (Chapter 9.10)

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

The City has a Private Sector Green Building Policy that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of

[23] CARB. "The Advanced Clean Cars Program". Accessed November 1, 2019. https://www.arb.ca.gov/msprog/acc/acc.htm.

these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Development under the proposed Downtown Strategy 2040 would be subject to this policy.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to GHG emissions and are applicable to the project Additional policies that have been adopted to reduce energy use (which would also reduce GHG emissions) are described in sections 4.3 Air Quality, 4.6 Energy, and 4.17 Transportation.

General Plan Policies - GHG Emissions	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
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.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG

analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[24]

4.8.1.2 *Existing Conditions*

The project site is currently developed with two vacant, single-family houses and surface parking. For the purposes of this analysis and to ensure a conservative assessment of project GHG emissions, it is assumed that the site does not currently generate GHG emissions.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒	☐

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

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

Construction GHG Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of 28 months (approximately 4,528 hours of construction) and would not result in a permanent increase in emissions. The proposed project would not interfere with the implementation of SB 32 in 2030.

[24] City of San José. *San José 2030 Greenhouse Gas Reduction Strategy.* November 2020.

Operational GHG Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgement on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site, planned growth from build out of the Downtown Strategy 2040 FEIR, and incorporates mandatory GHG reduction measures required by the City, the project would have a less than significant 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?

2017 Clean Air Plan

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

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

The proposed project would construct residences within a Transit Priority Area and has easy access to bike lanes, light-rail stops, and bus stops, reducing the number of vehicle trips. In addition, the project is within walking distance of schools, commercial services, and employment center, and would comply with Title 24 and CalGreen. The project, therefore, would not conflict with the applicable control measures in the 2017 CAP.

Envision San José 2040 General Plan

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

2030 San José Greenhouse Gas Reduction Strategy

Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed project is within the development capacity approved by the Downtown Strategy 2040 FEIR and would comply with GHGRS policies by installing solar panels on the proposed building, creating an all-electric building (i.e., no natural gas infrastructure), providing organic waste collection, implementing a TDM program, and planting water-sensitive landscaping (see Appendix F). For these reasons, the project would be consistent with the 2030 GHGRS. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based, in part, on a Phase I Environmental Site Assessment (ESA) prepared by ACS Associates in October 2017. This report is included as Appendix G to this Initial Study/Addendum.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, 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. The California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Cortese List

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and Santa Clara County.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials and Lead-Based Paint

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

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

Federal Aviation Administration Regulations

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, federal regulations require that any proposed structure higher than approx. 65-70 feet above ground be submitted to the FAA for airspace safety review. The project would require review by the FAA.

City of San José

Envision San José 2040 General Plan

The following policies from the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials, and are applicable to the project.

General Plan Policies - Hazards and Hazardous Materials	
Environmental Contamination	
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-7.4	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.

General Plan Policies - Hazards and Hazardous Materials	
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
Safe Airport	
TR-14.2	Regulate development in the vicinity of airports in accordance with FAA regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Community Health, Safety, and Wellness	
CD-5.8	Comply with applicable FAA regulations identifying maximum heights for obstructions to promote air safety.

San José Emergency Operations Plan

An Emergency Operations Plan (EOP) is required for each local government in California. The guidelines for the plan come from the Federal Emergency Management Agency (FEMA) and are modified by the State Office of Emergency Services for California needs and issues. The purpose of the plan is to provide a legal framework for the management of emergencies and guidance for the conduct of business in the Emergency Operations Center. San José City Council adopted their EOP in November 2018. It addresses emergencies such as floods, heat waves, power outages, terrorism, earthquakes, and fires.[25]

4.9.1.2 *Existing Conditions*

Project Site

The project site has historically been used for housing, based on historical aerial photographs and maps dating back to 1884. The southern portion of the project site near the intersection of North 4th Street and East St. John Street was developed with a gas and service station from about 1949 to 1969. The former gas station was reported as a leaking underground storage tank (LUST) case for gasoline, but the case was closed in March 2003 upon completed remediation. The project site is not on the Cortese List.[26]

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. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl

[25] City of San José. Emergency Operations Plan. November 2018.
[26] CalEPA. "Cortese List Data Resources". Accessed October 18, 2019. https://calepa.ca.gov/sitecleanup/corteselist/.

asbestos floor tiles, and transite siding made with cement. Use of friable asbestos products was banned in 1978. Given the on-site single-family houses were constructed prior to 1978, ACMs are likely present and assumed to be present for the purposes of this analysis.

Lead-Based Paint

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead in interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. Given the age of the existing single-family houses on-site, lead-based paint is assumed to be present.

4.9.1.3 *Off-Site Sources of Contamination*

Five LUST site cases are located less than one-eighth of a mile from the project site. Four of the LUST sites are closed. Townsend's Automotive, located at 247 East St. John Street—east of the project site—is still active. Elevated levels of total petroleum hydrocarbons (gasoline) were present in the soil during removal of the storage tank in 1985. Monitoring continues at the site and a soil vapor extraction well was installed in March 2010 to begin remediation of the site. Remediation is currently ongoing.

4.9.1.4 *Airport Safety*

The project site is not located within an Airport Influence Area (AIA).[27] The nearest airport is San José International Airport located approximately 1.8 miles northwest of the project site.

4.9.1.5 *Wildland Fires*

According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located in a fire hazard zone or the Wildland Urban Interface.[28]

4.9.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐

[27] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Norman Y. Mineta San José International Airport*. November 16, 2016.
[28] CAL FIRE. *Santa Clara County Fire Hazard Severity Zones in SRA*. November 6, 2007.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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?	☐	☒	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☐	☒
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?	☐	☐	☐	☒	☐
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒	☐

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

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

Operation

The small quantities of cleaning supplies and maintenance chemicals that would be transported, used, and stored on-site, would not generate substantial hazardous emissions or accidental chemical releases that would pose a risk to site users or adjacent residential land uses. Compliance with applicable federal, state and local handling, storage, and disposal requirements would ensure that no significant hazards to adjacent residences are created by the routine transport, use, or disposal of hazardous substances. **[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?

Construction

The project site is located on a closed LUST case site; however, construction on the project site could disturb on-site soils with residual petroleum-based contamination and expose construction workers to elevated concentrations of chemicals. Due to the residual contamination, the Santa Clara County Department of Environmental Health (SCCDEH) included the following conditions in a fuel leak closure letter dated March 3, 2006: "Residual contamination in soil and groundwater remains at the site that could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installation of water wells. The County and the appropriate planning and building department shall be notified prior to any changes in land use, grading activities, excavation, and installation of water wells. This notification shall include a statement that residual contamination exists on the property and list all mitigation actions, if any, necessary to ensure compliance with this site management requirement".

The levels of residual contamination and any associated site risk are expected. The Downtown Strategy 2040 FEIR determined that adherence to existing regulations, programs, and General Plan policies would substantially reduce hazards associated with contaminated soil and groundwater.

Impact HAZ-1: Grading and excavation of the project site could expose construction workers to elevated concentrations of chemicals from a closed leaking underground storage tank (LUST) case.

Mitigation Measure: Consistent with current regulations and the Downtown Strategy 2040 FEIR, the proposed project would be required to implement the following mitigation measures during construction.

MM HAZ-1.1: Prior to the issuance of any grading, excavation, or demolition permits, the project applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH) to determine the appropriate next steps including development of a Site Management Plan, Removal Action Work Plan,

or equivalent document, with measures such as, but not limited to, soil testing (for total petroleum hydrocarbons) and monitoring wells. Evidence of the SCCDEH coordination and compliance, such as an email or letter, shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, the Environmental Planner of the City's Planning Department, and the City's Environmental Compliance Officer.

With implementation of MM HAZ-1.1, impacts associated with residential ground contamination would be reduced to a less than significant level.

Asbestos Containing Materials and Lead-Based Paint Impacts

The project proposes to relocate the existing single-family houses, which could release asbestos particles into the environment and expose construction workers and nearby residents to harmful levels of asbestos. Suspected ACMs would be required to be properly assessed and removed prior to relocation consistent NESHAP guidelines.

If lead-based paint is still bonded to the building materials, its removal is not required prior to relocation. It will be necessary, however, to follow Cal/OSHA requirements during relocation activities.

The project is required to conform to the following regulatory programs and to implement the following Standard Permit Conditions, consistent with Cal/OSHA requirements, to reduce impacts due to the presence of ACMs and/or lead-based paint.

Standard Permit Conditions:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (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 asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) 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 Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than

one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
- Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

The Downtown Strategy 2040 FEIR determined that with implementation of the above standard permit conditions, the project would result in a less than significant impact from ACMs and lead. **[New Less than Significant Impact with Mitigation Incorporated]**

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 project site is within 0.25 mile of Horace Mann Elementary School, located at 55 North 7th Street, just east of the project site. The project would not introduce any new acutely hazardous materials, substances, or wastes to the project site and hazardous substances would be handled consistent with applicable federal, state, and local handling, storage, and disposal requirements (see Checklist Question a). Further, the project would coordinate with SCCDEH and, if necessary, implement an SMP and Health and Safety Plan (see Checklist Question b) to ensure soil and groundwater are handled properly during construction. For these reasons, the project would have a less than significant hazardous materials impact near schools. **[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, would it create a significant hazard to the public or the environment?

The project is not listed on any hazardous materials sites compiled pursuant to Government Code Section 65962.5; therefore, there would be a less than significant impact. **[Less Impact than 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?

The project site is not located within an AIA or designated safety hazard zone. For the project site, federal regulations require that any proposed structure higher than approximately 65-70 feet above ground be submitted to the FAA for airspace safety review. As the proposed project would be approximately 250 feet in height and, therefore, will be required to implement the following Standard Permit Conditions:

Standard Permit Conditions:

- Avigation Easement. An avigation easement shall be granted by the Permittee to the City of San José.
- 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.

The Downtown Strategy 2040 FEIR determined that with implementation of the above standard permit conditions, the project would not result in in a safety hazard or excessive noise for people residing or working in the project area. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The Downtown Strategy 2040 FEIR determined that the roadway network in the downtown area will be designed to accommodate emergency vehicles. The proposed project would not alter the existing roadway network and would provide adequate access for emergency vehicles via a driveway on North 4th Street. For these reasons, the project would not interfere with an adopted emergency response 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 project site area is located in a developed urban area and would not expose people or structures to wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Water Quality Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the U.S. EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the NPDE) 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 RWQCBs. The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Regional

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater NPDES Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit[29] (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.

Provision C.3 – New Development and Redevelopment

Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

[29] MRP Number CAS612008

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

Santa Clara Valley Water District

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

City of San José

Post-Construction Urban Runoff Management Policy 6-29

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

Floodplain Ordinance – Municipal Code Section 17.08

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

Envision San José 2040 General Plan

The following policies in the City's 2040 General Plan apply to the project and have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality.

General Plan Policies - Hydrology and Water Quality	
Stormwater	
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.

General Plan Policies - Hydrology and Water Quality	
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Water Conservation and Quality	
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.
Water Supply, Sanitary Sewer and Storm Drainage	
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters 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.

4.10.1.2 *Existing Conditions*

Flooding

Based on FEMA Flood Insurance Rate Maps, the project site is located in Flood Zone D.[30] Zone D is an area of undetermined but possible flood hazard. There are no floodplain requirements for Zone D.

[30] FEMA. "FEMA Flood Map Service Center". Accessed February 26, 2019. https://msc.fema.gov/portal/home.

Dam Failure

Based on the Valley Water dam failure inundation hazard maps, the project site is not within the Lexington Reservoir or Anderson Dam failure inundation hazard zone.[31,32]

Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[33] The site is located on the nearly flat valley floor topography and is not subject to the risk of mudflows.

Storm Drainage System

The City of San José Public Works Department operates and maintains the storm drainage system that serves the project site. Currently, the project site is 66 percent impervious (a mix of pavement and compacted dirt). The receiver site for the relocation of the single-family houses is 100 percent impervious. There are existing storm drain lines in North 4th Street and East St. John Street that would serve the proposed development.

Water Quality

Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. The nearest waterway to the project site is the Guadalupe River, located 0.70 mile west.

Groundwater

Groundwater was found at a depth of 14 feet below ground surface (bgs). Groundwater levels would fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site is mostly comprised of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

[31] Valley Water. *Leroy Anderson Dam Flood Inundation Maps*. Map. April 2016.
[32] Valley Water. *Lenihan (Lexington) Dam Flood Inundation Maps*. Map. April 2016.
[33] California Department of Conservation. "Santa Clara County Tsunami Hazard Map". Accessed March 9, 2022. https://www.conservation.ca.gov/cgs/tsunami/maps/santa-clara.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
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:	☐	☐	☐	☒	☐
– 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?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

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

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

Construction

Construction activities would result in a temporary increase in stormwater pollutants during ground disturbing activities. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. Because the project would disturb more than the one acre of land, the project would be required to comply with the general stormwater permit and prepare a SWPPP for construction activities. In addition, the following Standard Permit Conditions (based on RWQCB recommendations) have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts:

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily with water sweepers.
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

With implementation of the above measures and standard permit conditions, the Downtown Strategy 2040 FEIR determined that the project would have a less than significant construction-related water quality impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction

The NPDES MRP requires projects that create or replace greater than 10,000 square feet of impervious surface to design and install LID controls to treat post-construction stormwater runoff

from the site. The MRP defines LID treatment measures as harvesting and re-use, infiltration, evapotranspiration, or biotreatment. The proposed project would replace over 10,000 square feet of impervious surface, so LID requirements would apply.

The project would increase the amount of impervious surfaces by approximately 7,400 square feet due to replacement of existing dirt areas with roof area. The project would, however, be required to implement specific requirements to minimize and treat stormwater runoff from new and redevelopment projects, per the MRP and City Council Policy 6-29. The project may qualify for LID treatment reduction credits under the Special Projects provisions for infill development. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is ultimately subject to the City's review and approval. Stormwater runoff from the site would be directed to media filters, and/or flow-through planters on-site prior to entering the storm drainage system. The drainage management areas would be numerically sized and would have sufficient capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements. In addition, the project includes a flow-through planter and media filter to reduce stormwater runoff. The Downtown Strategy 2040 FEIR concluded that projects designed consistent with the current NPDES permit would ensure stormwater runoff from new development would have a less than significant impact on stormwater quality. Compliance with the City's Grading Policy, the City's Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts on water quality as described in the Downtown Strategy 2040 FEIR. **[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 project would not substantially deplete groundwater supplies because groundwater would not be used or accessed on the project site. Furthermore, there are no designated groundwater infiltration sites within the project area. While the project would increase impervious surfaces from approximately 66 percent to 83 percent, the Downtown Strategy 2040 FEIR determined that compliance with the MRP and City Council Policy 6-29 would result in a less than significant impact on groundwater supplies and recharge. **[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 project would increase the amount of impervious surfaces on-site. The project would be required to implement the construction-related Standard Permit Conditions to minimize erosion, as well as post-construction requirements to minimize and treat stormwater runoff (per the NPDES MRP and City Council Policy 6-29). Thus, the project would not substantially alter the existing drainage pattern of the site such that erosion or siltation would occur, nor would the project result in a substantial increase the rate or amount of surface runoff. **[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 subject to inundation by seiche, tsunami, or mudflow and is not in a flood hazard zone. Further, the project does not include storage or use of significant pollutants such that they would be released during 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?

As discussed in Checklist Questions a) and b), the proposed project includes Standard Permit Conditions, would be required to comply with the NPDES MRP, and would not impact groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

City of San José

Envision San José 2040 General Plan

The following General Plan land use and planning-related policies adopted for the purpose of avoiding or mitigating impacts would apply to the project.

General Plan Policies - Land Use	
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-1.22	Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.
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-5.8	Comply with applicable FAA regulations identifying maximum heights for obstructions to promote air safety.
TR-14.2	Regulate development in the vicinity of airports in accordance with FAA regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

San José Zoning Ordinance

The Zoning Ordinance serves as an implementing tool for the General Plan by establishing detailed, parcel-specific development regulations and standards. The Zoning Ordinance divides the City of San José into zoning districts to guide future land uses.

4.11.1.2 *Existing Conditions*

General Plan Land Use Designation

The project site is designated Downtown under the City's General Plan. This designation allows for a wide range of commercial, office, and residential uses. Development intensity in this designation allows up to 800 dwelling units per acre and a floor to area ratio (FAR) of up to 30. The maximum height of buildings is limited to 30 stories.

The receiver site is designated Transit Residential under the City's General Plan. This is the primary designation for high-density, mixed-use residential development sites that are located in close proximity to transit, jobs, amenities, and services.

Existing Zoning Ordinance Designation

The project site is in the CG- Commercial General Zoning District. The CG Zoning District is a commercial district intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development would be auto-accommodating and includes larger commercial centers as well as regional malls. The maximum height allowed is 65 feet.

The receiver site is in the R-M – Multiple Residential Zoning district. The R-M Zoning District is a residential district intended to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development.

Existing Land Uses

The northern portion of the project site is currently developed with two single-family houses. The remainder of the site, including the receiver site, is undeveloped with a mixture of paved and compacted dirt surface parking.

Surrounding Land Uses

The project site is surrounded by a mix of commercial, office, and residential buildings of varying styles and heights. South of the project site, across East St. John Street, is a six-story apartment building. West of the project site, across North 4th Street, is a one-story commercial building, and a 10-story office building. Directly north of the project site is a single-family residence and a 10-story, apartment building, and northwest and west of the project site are a mix of single-family residences and one- to two-story apartment buildings.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☐	☒

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

a) Would the project physically divide an established community?

The project site is located in a transition area from one- to two-story residential buildings to high rise mixed-use and office buildings. Currently, the majority of the site is used as surface parking. As proposed, the project would redevelop the site with a 23-story residential structure with ground-floor retail uses. While the height of the building would be significantly taller than any of the immediately adjacent buildings, the proposed land uses would be consistent with the existing General Plan land use designations in the project area (Downtown and Residential Neighborhood). In addition, the project would activate an underutilized space to bring more foot traffic to the project area and make improvements to the sidewalk surrounding the project site. The site is located in the downtown area and the height proposed is consistent with what is allowed by the General Plan land use designation for the site. For these reasons, the proposed project would result in activation of the site with uses consistent with its surrounding area. The project would not physically divide 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?

The proposed project is subject to standard permit conditions, Downtown Strategy 2040 measures, and mitigations measures to minimize environmental impacts, including hazardous materials and biological resources impacts, and would be consistent with General Plan policies adopted to avoid or mitigate environmental effects as described in the individual resource sections of this document. For these reasons, the proposed project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?

The proposed project is located approximately 400 feet east of St. James Park. As shown in Figure 4.11-1, the project would not cast a shadow on St. James Park at any time throughout the year; therefore, the project would not have a shadow impact. **[Less Impact than Approved Project (No Impact)]**

Summer Solstice - June 21

Winter Solstice - December 21

Source: LPMD Architects.

SHADOW STUDY | FIGURE 4.11-1

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. Pursuant to the mandate of the SMARA, the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue, has been designated as containing mineral deposits that are of regional significance as a source of construction aggregate materials. No other areas in San José contain mineral deposits of statewide significance.

4.12.1.2 *Existing Conditions*

The project area does not contain known mineral resources and is approximately four miles north of the Communications Hill area.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

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

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 project would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present with the general area. The proposed project, therefore, would not result in impacts to 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?

See response to Checklist Question a). **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

The following discussion is based on a noise and vibration report prepared by Illingworth & Rodkin, Inc. in July 2019. A copy of the report is attached as Appendix H to this Initial Study/Addendum.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

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.[34] 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. The threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

4.13.1.2 *Regulatory Framework*

State

2017 State Building Code, Title 24, Part 2

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

[34] 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}.

than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dB DNL or CNEL in any habitable room.

California Green Building Standards Code

The California Green Building Standards Code (CalGreen) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite Sound Transmission Class (STC) rating of at least 50 or a composite Outdoor-Indoor Transmission Class (OITC) rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} noise contour for a freeway or expressway, railroad, industrial source or fixed-guideway noise source. CalGreen also requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed office building.

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 4.13-1 below.

Table 4.13-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)

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

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

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

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

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

General Plan Policies – Noise and Vibration	
Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • 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 CBC is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

General Plan Policies – Noise and Vibration	
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 will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Construction Vibration

Policy EC-2.3 of the 2040 General Plan establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction The vibration limits contained in Policy EC-2.3 utilized criteria from literature available to the City in 2011 that are conservative, and given the broad categories, are now believed to be too general for buildings in the Downtown Strategy 2040 area. In 2013, Caltrans developed the vibration criteria shown in Table 4.13-2. The City of San José has judged that the criteria best accomplish the goal to identify and mitigate construction vibration impacts. The criteria are utilized to implement 2040 General Plan Policy EC-2.3 for projects covered by the Downtown Strategy 2040.

Table 4.13-2: Construction Vibration Threshold Criteria			
Category	**PPV at Affected Building**	**Human Reaction**	**Effect on Buildings**
1	0.01	Barely perceptible	No effect
2	0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
3	0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of the vibration to which ruins and ancient monuments should be subjected
4	0.1	Strongly perceptible	Threshold at which there is a risk of cosmetic damage to fragile buildings with no risk of cosmetic damage to most buildings
5	0.25	Strongly perceptible to severe	Threshold at which there is a risk of damage to historic and some old buildings.
6	0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential structures
7	0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to new residential and modern commercial/industrial structures
Source: Caltrans. Transportation and Construction Vibration Guidance Manual. September 2013.			

Through use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum. For projects that produce vibration levels exceeding the thresholds for Categories 3 through 7, construction vibration has the potential to cause damage, depending on the age and fragility of the affected buildings.

City of San José Municipal Code

According to San José Municipal Code Chapter 20.30.700, sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use and 60 dBA at any property line shared with land zoned for commercial or other non-residential use, except upon issuance and in compliance with a Development Permit or other planning approval.

Chapter 20.100.450 of the City's Municipal Code also establishes allowable hours of construction within 500 feet of a residential unit between the hours of 7:00 AM and 7:00 PM 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.

4.13.1.3 *Existing Conditions*

The existing noise environment at the project site results primarily from vehicular traffic on North 4th Street or East St. John Street. Two long-term and three short-term noise measurements were taken along the roadways bordering the project site between April 25, 2017 and April 27, 2017, and range from 63 to 68 dBA DNL.[35]

The nearest sensitive receptors are adjacent multi-family and single-family residential land uses located directly east, northeast, and north of the project site. An additional multi-family residential building is located south of the project site across East St. John Street, approximately 210 feet from the center of the project site.

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project result in:					
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?	☐	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

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

4.13.2.1 *Construction Noise*

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5.0 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

[35] Illingworth & Rodkin, Inc. *4th and St. John Mixed-Use Student Housing Project Noise & Vibration Assessment*. July 17, 2019.

4.13.2.2 *Operational Noise*

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

4.13.2.3 *Construction Vibration*

The City of San José relies on guidance developed by the FTA (described previously) to address vibration impacts from development projects in San José.

Noise Impacts

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed in accordance with General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would, therefore, be less than 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

A project in the downtown area would be considered to generate a significant temporary construction noise impact if project construction activities exceeded 60 dBA L_{eq} at nearby residences or exceeded 70 dBA L_{eq} at nearby commercial land uses, and exceeded the ambient noise environment by five dBA L_{eq} or more for a period longer than one year. The City of San José considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or within 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.

Construction of the proposed project would involve grading, excavation to lay foundations, trenching, building erection, and paving and would start in early May 2020 and be completed by September 2022 (approximately 28 months).[36] During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating.

As mentioned previously, the nearest noise-sensitive land uses are existing single- and multi-family residences are located adjacent to the project site to the north and east, as well as opposite East St. John Street to the south. Hourly average noise levels due to activities during construction periods

[36] Delays in the project design and review has pushed the start of construction to a later date; however, the duration of construction and the conclusions of noise/vibration impacts discussed in this Initial Study/Addendum would remain the same.

would range from approximately 74 to 82 dBA L_{eq} at the eastern residential buildings (approximately 70 feet). At 150 feet, construction noise levels would range from 67 to 73 dBA L_{eq}. Construction noise levels at receptors within 500 feet of the site would be expected to exceed the significance thresholds periodically throughout the construction period. Per General Plan Policy EC-1.7, the construction impact would be significant.

The following Standard Permit Conditions would be implemented during all phases of project construction to reduce construction noise levels at noise-sensitive receptors to a less than significant level.

Standard Permit Conditions:

- Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:
    - Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
    - Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
    - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
    - Prohibit unnecessary idling of internal combustion engines.
    - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
    - Utilize "quiet" air compressors and other stationary noise sources where technology exists.
    - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
    - Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
    - If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
    - Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Implementation of the above-listed measures would reduce construction noise levels from the site, limit construction hours, and minimize disruption and annoyance. With implementation of these measures and recognizing that noise generated by construction activities would occur over a temporary period, the increase in ambient noise levels would be less than significant.

Project-Generated Traffic Noise

An increase of three dBA DNL is considered substantial in noise sensitive areas along roadways. The proposed project would increase traffic noise levels along North 4th Street by up to two dBA DNL and along East St. John Street by up to one dBA DNL. As a result, the project would have a less than significant traffic noise impact.

Mechanical Equipment Noise

The proposed project would include various mechanical equipment, such as air conditioners, exhaust fans, and air handling equipment for ventilation of the buildings. The project includes mechanical, utility, and electrical rooms located on the first through fourth parking levels on the interior, as well as mechanical units in a rooftop enclosure. Given the close proximity of noise-sensitive uses to the project site, there is the potential for noise from mechanical equipment to exceed 55 dBA DNL at shared property line with noise-sensitive land uses. The Downtown Strategy 2040 FEIR, however, states that implementation of General Plan policies would reduce potential impacts associated with new noise-producing land uses facilitated by the plan to a less than significant level. Specifically, General Plan Policy EC-1.3 would be implemented and would require new projects to limit noise generation to 55 dBA DNL at the property line. General Plan Policy EC-1.9 would also be implemented requiring that studies be conducted to mitigate noise sources associated with new projects.

In accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required as a Condition of Project Approval to implement the following measure:

Condition of Approval:

- A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The

study shall be submitted to the City of San José for review and approval prior to issuance of any building permits for vertical construction.

With implementation of the above Condition of Approval, the mechanical equipment noise from the proposed project would have a less than significant impact on surrounding land uses.

Truck Loading and Unloading

Truck deliveries for the ground-level retail uses on the project site would generate noise. The proposed on-street loading zone is located along the west project frontage on North 4th Street, just south of the project parking garage driveway. Additionally, the retail and residential trash areas are also located on the ground level within the parking garage. It is assumed that deliveries and trash pickup would occur during daytime hours, at most two to three times a week. Typical noise levels generated by loading and unloading of truck deliveries would be similar to noise levels generated by truck movements on existing local roadways and by similar activities at surrounding uses; therefore, peak noise levels from truck activities would not increase the day-night average noise level. These infrequent deliveries would not generate noise levels exceeding 55 dBA DNL at the nearby noise-sensitive land uses; therefore, the impact would be less than significant.

Parking Structure Noise

Intermittent noise from the parking garage would include vehicle engine starting, driving, and vehicle doors closing. The surrounding land uses are currently exposed to the parking lot noise and would continue to be exposed to the parking structure noise within the proposed mixed-use building. The existing parking lot is at the ground level and could be used at all times. The current day-night average noise level along North 4th Street is 68 dBA DNL, which exceeds 55 dBA DNL threshold. The new ground level parking area would be shielded by solid walls, and the upper parking levels on floors two through four would be at higher elevations than the existing parking lot. This would mean that the distance from the parking structure noise sources would be at a greater distance from the sensitive-noise receptors and there would be partial shielding from the parking structure wall **[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 nearest sensitive receptors would be the adjacent residences located approximately five feet to the north and east of the project property line, with one of the adjacent buildings to the east being a historical building. At this distance, vibration levels due to construction activities (excluding pile driving) would be up to 1.2 in/sec PPV, which would exceed the 0.2 in/sec PPV threshold for conventional buildings and the 0.08 in/sec PPV threshold for historical buildings. Pile driving could occur as close as 15 feet from these structures. Vibration levels from impact pile driving would typically be 1.1 in/sec PPV but could reach levels up to 2.0 in/sec PPV. Vibration levels from vibratory pile driving would typically be 0.3 in/sec PPV but could reach levels up to 1.3 in/sec PPV. Vibration from both impact and vibratory pile driving would be above the 0.2 in/sec PPV threshold for conventional buildings and the 0.08 in/sec PPV threshold for historical buildings.

Historical sensitive receptors are located at least 60 feet southeast and southwest of the project property, and at this distance, vibration levels due to construction activities would be up to 0.08 in/sec PPV. Pile driving could occur as close as 70 feet from these receptors. Vibration levels from impact pile driving would typically be 0.21 in/sec PPV but could reach levels up to 0.37 in/sec PPV. Vibration levels from vibratory pile driving would typically be 0.06 in/sec PPV but could reach levels up to 0.24 in/sec PPV. Vibration from impact pile driving and the upper range of vibratory pile driving would be above the 0.08 in/sec PPV threshold for historical buildings, but typical levels of vibratory pile driving would be below the threshold.

Impact NOI-1: Pile driving and upper-level vibratory pile driving during construction would exceed the 0.08 in/sec PPV threshold for historical buildings within 180 feet of the project site and the 0.2 in/sec PPV threshold for all buildings within 121 feet of the project site and therefore could cause structural damage to nearby buildings.

Mitigation Measure: Consistent with the Downtown Strategy 2040 FEIR, implementation of the following mitigation measure would reduce potential vibratory impacts to a less than significant level.

MM NOI-1.1: Prior to issuance of any grading permits or certificates of occupancy, the project applicant shall implement the following applicable controls for Categories 3, 4, and 5 (as outlined in the Downtown Strategy EIR) to reduce vibration levels below the 0.08 in/sec PPV threshold for historical buildings within 180 feet of the project site, and the 0.2 in/sec PPV threshold for all buildings within 121 feet of the project site:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.

Prior to issuance of any grading permits or certificates of occupancy, the project applicant shall implement the following applicable controls for Categories 6 and

7 (as outlined in the Downtown Strategy EIR) to reduce vibration levels below the 0.08 in/sec PPV threshold for historical buildings within 180 feet of the project site, and the 0.2 in/sec PPV threshold for all buildings within 121 feet of the project site:

- Notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels resulting from pile driving.
- Foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile.
- Jet or partially jet piles into place to minimize the number of impacts required to seat the pile.
- A construction vibration monitoring plan shall be implemented to document conditions prior to, during, and after pile driving. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California (and a Historic Architect if the affected structures are historic resources) and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
    - Identification of sensitivity to ground-borne vibration of nearby structures. A vibration survey (generally described below) would need to be performed.
    - Performance of a pre-construction photo survey, elevation survey, and crack monitoring survey for each of these structures. Surveys shall be performed prior to any pile driving activity, in regular interval during pile driving, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
    - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after pile driving. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the 2040 General Plan, such as Policy EC-2.3.
    - If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.

- Conduct post-construction survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.
- The results of all vibration monitoring shall be summarized and submitted in a report to the Director of Planning, Building and Code Enforcement or Director's designee, shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Implementation of MM NOI-1.1, including repair of any damage that results from the project, would reduce potential vibratory impacts to nearby sensitive receptors to a less than significant level. **[Less Impact than Approved Project (Significant and Unavoidable 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?

The nearest airport is San José International Airport located approximately 1.8 miles northwest of the project site. The project site is located outside the AIA and the City's projected 2027 60 dB CNEL noise contour.[37] **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.13.3 Non-CEQA Effects

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

[37] City of San José, "Norman Y. Mineta San José International Airport Master Plan Update Project: Eighth Addendum to the Environmental Impact Report," City of San José Public Project File No. PP 10-024, February 10, 2010.

Exterior Noise Impacts

Residential Land Uses

Common outdoor use areas for the proposed project would include two podium level courtyards on the 5th floor, opening to the northeast. The building would completely shield the courtyards from traffic noise along East St. John Street and North 4th Street (courtyard opening would face east towards North 5th Street). The center of the 5th floor podium courtyard nearer to East St. John Street would be approximately 125 feet from the centerline of East St. John Street. Accounting for the effects of distance, the 5th floor elevation, and shielding provided by the building itself, the future exterior noise level at this courtyard would be up to 54 dBA DNL. The noise exposure of the other courtyard would be similar. Exterior noise levels at the acoustically shielded residential outdoor use areas would not exceed the City's 60 dBA DNL exterior noise standard and would be considered compatible with the proposed land use and Policy EC-1.1.

Interior Noise Impacts

Residential Land Uses

Residential units would be located on the 5th floor through the 23rd floor. At a distance of 40 feet away from the roadway centerlines, the exterior traffic noise exposure at the western facade of the proposed building would be up to 68 dBA DNL and at the southern facade would be up to 62 dBA DNL. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation would reduce interior noise levels to acceptable levels with closed windows.

Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods would be required. Assuming windows to be partially open for ventilation, the interior noise levels for the proposed project would be up to 53 dBA DNL at the units along the western façade of proposed building. This would exceed the 45 dBA DNL threshold for interior noise. To meet the 45 dBA DNL threshold set forth in General Plan Policy EC-1.1, the project would be required to comply with the following Condition of Approval:

Condition of Approval:

The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels at residential uses to 45 dBA DNL or less:

- The proposed building would require windows and doors for the residential units along the southern and eastern facades would need to be properly sound rated to meet the interior noise threshold of 45 dBA DNL. Preliminary calculations indicate that the residential units along the southern and eastern façades of the proposed building would require windows and doors with a minimum rating of 28 STC.
- The project shall 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.

- 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 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. 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.

With implementation of these noise insulation features, interior noise levels would be reduced to 45 dBA DNL or less and the project would be consistent with Policy EC-1.1.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

The project site is located in an urbanized area in the City of San José. The City of San José population was estimated to be 1,029,782 in January 2021.[38] The City had approximately 337,422 housing units in 2021, resulting in an average of 3.14 persons per household. ABAG projects that there will be an approximate City population of 1,337,145 and 458,490 households by the year 2040.[39]

There are two, single-family houses on the project site and it is in an already developed area with infrastructure and roads. The project site is located within a Priority Development Area.[40]

4.14.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

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

[38] California Department of Finance. "Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021." Accessed August 14, 2021. Available at: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/
[39] Association of Bay Area Governments. "Projections 2040". Accessed August 14, 2021. http://projections.planbayarea.org/
[40] Priority Development Areas (PDAs) are places near public transit that are planned for new homes, jobs and community amenities. ABAG, Metropolitan Transportation Commission. Project Mapper. http://projectmapper.planbayarea.org/.

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)?

The proposed project would construct 298 housing units in the urbanized area of downtown San José. and is consistent with the project site's General Plan designation and already develop land planned for growth in the City's 2040 General Plan. The amount of development proposed is consistent with the General Plan land use designation for the site and the development assumptions in the Downtown Strategy 2040 and General Plan FEIRs. The project does not propose improvements (such as the expansion of infrastructure beyond the City's urban service boundary) that would result in indirect population growth. For these reasons, the project would not result in new or substantially more population growth than disclosed in the Downtown Strategy 2040 FEIR. **[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?

There are two single-family houses located on the project site that would be relocated to a vacant lot as part of the project. The project would not displace substantial numbers of people or housing, necessitating the construction of replacement housing elsewhere. Additionally, the project would add 298 new residential units to the site. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Quimby Act

The Quimby Act (California Government Code Sections 66477) was approved by the California legislature to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees due in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two at the discretion of the City of San José.

School Impact Fees

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]). In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts associated with public facilities and services and are applicable to the project.

General Plan Policies - Public Facilities and Services	
Libraries	
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.

General Plan Policies - Public Facilities and Services	
Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve 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, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.4	Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.
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-3.13	Maintain emergency traffic preemption controls for traffic signals.
ES-3.15	Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed restricted affordable housing that meets the City's affordability criteria, are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

4.15.1.2 *Existing Conditions*

Police Department

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 1.1 miles northwest of the project

site. For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Fire Department

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The fire department currently consists of 33 active stations serving an area of 205 square miles and over one million residents. The nearest fire station to the project site is Station No. 1, located at 225 North Market Street, approximately 0.3 miles west of the site.

Schools

The project site is located within the San José Unified School District (SJUSD). Students in the project area would attend Horace Mann Elementary School (K-5th grade), Burnett Middle School (6th and 8th grade), and San José High School. The closest school to the project site is Horace Mann Elementary School located at 55 North 7th Street, approximately 0.25 miles southeast of the project site.

Parks

The City of San José manages a total of 3,435 acres of regional and neighborhoods/community serving parkland. Other recreational facilities within the City include community centers, senior centers, youth centers, skate parks, and trails. The nearest park to the project site is St. James Park, approximately 400 feet west.

Libraries

The Dr. Martin Luther King Jr. Library, located at 150 East San Fernando Street, opened in downtown in 2003. It is the closest library to the project site, approximately 0.4 miles south. There are 22 additional branch libraries located throughout San José.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☐	☒	☐

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

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 increase the density of housing on the project site, resulting in an increase the demand for fire protection services compared to existing conditions. The Downtown Strategy 2040 FEIR concluded that the increase in fire protection services from the build out of the Downtown Strategy 2040 (which includes the proposed development) would not require the construction of fire stations in excess of those already planned to maintain adequate service.[41] In addition, although SJFD is not currently meeting response time objectives, the planned construction and/or relocation of stations by the City will improve response times.[42]

New development (including the proposed project) would be constructed to current fire and building code standards, including adequate emergency vehicle access and features that would reduce potential fire hazards. For these reasons, the project would not result in new or substantially more severe significant fire protection impacts than disclosed in the certified Downtown Strategy 2040

[41] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 262.
[42] City of San José. *Integrated Final EIR for the Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 262.

FEIR and would not require the construction of new SJFD facilities. **[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?

Development of the proposed project could increase the demand for police services at the site. The Downtown Strategy 2040 FEIR determined that while no new stand-alone police facilities would be needed as a result of population growth under the General Plan, expansion of existing facilities may be required.

In the event additional or expanded facilities are determined to be necessary, implementation of General Plan policies would reduce the physical impacts from the development of police facilities to a less than significant level, although supplemental environmental review would be required. Implementation of General Plan policies and actions would also help the SJPD to meet and maintain the City's response time objectives over the long-term. The proposed project is part of the planned growth identified in the Downtown Strategy 2040 and would not, by itself, result in the need for expanded facilities. Therefore, the proposed project, consistent with the site's General Plan designation, would not result in a significant impact to police protection services. **[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?

The proposed project would construct 298 residential units in the SJUSD and generate 40 elementary school, 21 middle school, and 19 high school students.[43] The Downtown Strategy 2040 FEIR determined that existing and planned school facilities would be able to accommodate the planned growth in the City's General Plan. In addition, the project would be required to implement the following Standard Permit Condition:

Standard Permit Condition:

- In accordance with California Government Code Section 65996, the project shall pay a school impact fee to the affected school district to offset the increased demands on school facilities caused by the proposed project.

[43] This estimate is based on the SJUSD's student generation rates for multi-family (condominium) uses: 0.133 students in grades K-5 per dwelling unit, 0.071 (grades 6-8), and 0.062 (grades 9-12). Source: 2040 General Plan EIR.

With implementation of the above Standard Permit Condition and given that the project is consistent with the site's General Plan land use designation, the 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?

The Downtown Strategy FEIR determined that the planned build out of the downtown area would not meet the City's service level objectives for parkland (three acres per 1,000 residents). While the proposed project includes approximately 8,000 square feet of private residential outdoor space between two courtyards, it does not meet the parkland requirements for the residents who would live there. Consistent with the Downtown Strategy 2040 FEIR, the proposed project would be required to meet its parkland obligation through the payment of PDO/PIO fees, based on the number of dwelling units and credit for private recreational space. Payment of the PDO/PIO fees per City policy would result in less than significant impacts to parks. **[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 Downtown Strategy 2040 FEIR determined that existing and planned library facilities would provide approximately 0.68 square feet of library space per capita, which would exceed the service level objective of providing at least 0.59 square feet per capita. Given that the project is consistent with the site's General Plan land use designation, library services would continue to meet the City's service level objective and no new facilities would be required. As a result, the project would not result in physical impacts from the construction or expansion of library facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Quimby Act

The Quimby Act (California Government Code Sections 66477) was approved by the California legislature to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees due in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two at the discretion of the City of San José.

City of San José

Greenprint 2009 Update

The City of San José Greenprint 2009 Update, which is the City's 20-year strategic plan for parks, recreational facilities, and programs has identified two goals related to the trail network: 1) complete 100 miles of interconnected trails by 2022, and 2) complete 130 miles of the network by 2035. The Greenprint identifies the Central/Downtown Planning Area as having the greatest parkland deficit, with a projected need for roughly 300 additional acres of neighborhood/community-serving parkland to meet the City's service objective by 2020. Given its population density, the most practical strategy for increasing recreation amenities will be the development of privately owned pocket parks, plazas, and other small scale recreation facilities; however, completion of planned park facilities such as Del Monte Park and build out of the Guadalupe River Park Master Plan will help offset the acreage needed.[44]

Parkland Dedication Ordinance and the Park Impact Ordinance

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

Envision San José 2040 General Plan

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

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

General Plan Policies – Recreation	
Parks, Trails, Open Space, and Recreation	
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-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[45] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains up to 197 neighborhood parks, 50 community centers, nine regional parks, and over 61 miles of urban trails.

The nearest park to the project site is St. James Park, about 400 feet west. St. James Park is seven acres in size.

4.16.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
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?	☐	☐	☐	☒	☐

[45] City of San José. *Fast Facts*. October 9, 2019.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
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?	☐	☐	☐	☒	☐

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

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?

As discussed in Section 4.15 Public Services, the proposed project would increase the use of recreational facilities in an area that does not meet the City's park service level objective of three acres per 1,000 residents. The project would, however, include on-site recreational areas and would pay PDO/PIO fees to help offset the project's recreation impacts, consistent with the Downtown Strategy 2040 FEIR. The PDO/PIO fees would be used to maintain existing parks and recreational facilities, and assist the City in creating new park space to meet the service level objective. For this reason, the project would have a less than significant impact on recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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?

The project would not directly result in the construction of a new park. While the payment of PDO/PIO fees would fund the future construction of parks within the City, each new park would undergo supplemental project-level environmental review to ensure environments impacts are minimized. For these reasons, the proposed project would have a less than significant impact related to the construction or expansion of recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

This section is based on the local transportation analysis prepared for the project by Hexagon Transportation Consultants, Inc. in November 2022. This report is included as Appendix I to this Initial Study/Addendum.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

Regional Transportation Plan

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 vehicle miles traveled (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. SB 743 did not authorize the State of California Office of Planning and Research (OPR) to set specific VMT impact thresholds, rathe the City of San José has developed and utilizes its own VMT thresholds (described below).

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1 Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. 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 a 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 to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

San José Bike Plan 2020

The San José Bike Plan 2020 establishes goals, policies, and actions to facilitate bicycling as a daily part of life in San José. The plan includes and describes designated bike lanes along many City streets, as well as designated bike corridors. In order to further the goals of the City, pedestrian and bicycle facilities are encouraged with new development projects.

Better Bikeways SJ

The City of San José is redesigning several streets to make it safer, more convenient, and more comfortable to bike. The City is focusing on providing calm, comfortable, and connected bicycling routes with design changes like protected bike lanes on wide streets, protected intersections at busy crossings, and traffic diverters on small streets.

Envision San José 2040 General Plan

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

General Plan Policies – Transportation	
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 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.
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-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 José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
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.

General Plan Policies – Transportation	
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.

4.17.1.2 *Existing Conditions*

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

Santa Clara Street is an east-west four-lane street that runs south of the project site. At Stockton Avenue to the west, it transitions into The Alameda. East of US 101 it transitions into Alum Rock Avenue.

St. James Street is an east-west two-lane street that runs north of the project site. It extends from Notre Dame Avenue, east to 19th Street. Between Market Street and 4th Street, St. James Street provides eastbound-only travel.

St. John Street is an east-west two-lane street that runs along the south project frontage. It extends from Autumn Street, near the SAP Center, east to 18th Street.

4th Street is a north-south two-lane street providing southbound-only travel between its intersection with St. James Street and its intersection with Reed Street.

3rd Street is a north-south two-lane street providing northbound-only travel between Humboldt Street and its intersection with Julian Street.

Bicycle Facilities

Class II bicycle facilities (striped bike lanes) are provided on 4th Street north of Santa Clara Street (including along the west project frontage), 3rd Street north of St. James Street, 1st Street north of Julian Street, 7th Street north of San Fernando Street, and St. John Street between 2nd Street and 4th Street. Several bike lane corridors within the downtown area have been improved to Class IV bicycle facilities (protected bike lanes) as part of the Better Bikeways Network, including bike lanes on 3rd Street and San Fernando Street near the project vicinity. East St. John Street, east of 4th Street (including along the south project frontage) and west of 2nd Street, is a designated Class III bikeway and provides "sharrow" or shared lane markings.

Guadalupe River trail is an 11-mile continuous Class I (paved bike path separated from street) bikeway from Curtner Avenue in the south to Alviso in the north. This trail system can be accessed along St. John Street west of SR-87, approximately 0.7 miles west of the project site.

The City of San José participates in the Bay Wheels bike share program that allows users to rent and return bicycles at various locations. The nearest bike share station is located north of the intersection of 3rd Street and East St. John Street, approximately 550 feet from the project site. In addition,

several transportation companies provide dockless bike and scooter rentals throughout the Downtown area.

Pedestrian Facilities

Pedestrian facilities in the project area consist mostly of sidewalks along the surrounding streets, including the project frontages along North 4th Street and East St. John Street. Crosswalks and pedestrian signal heads are available on all four approaches at the intersection of 4th Street and East St. John Street.

Transit Facilities

Bus Service

The nearest VTA bus stops to the project site are located along Santa Clara Street at 5th Street, and along 1st Street and 2nd Street, adjacent to the St. James light rail transit (LRT) station platforms. VTA bus lines that operate within the project area are summarized in the Table 4.17-1 below.

Table 4.17-1: Local Bus Routes

Route	Description	Headway[1] (minutes)
Local Route 22	Palo Also Eastridge Transit Center via El Camino	15
Local Route 23	De Anza College to Alum Rock Transit Center via Stevens Creek	12 to 15
Local 64A	McKee & White to Ohlone-Chynoweth Station	30[2]
Local 64B	McKee & White to Almaden Expressway & Camden	30[2]
Frequent Route 66	North Milpitas to Kaiser San José	12 to15
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	15 to 20
Frequent Route 72	Downtown San José to Senter & Monterey via McLaughlin	5 to 20
Frequent Route 73	Downtown San José to Senter & Monterey via Senter	10 to 15
Rapid Route 500	San José Diridon Station to Downtown San José	15 to 20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	10 to 15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	15 to 20
Rapid Route 568	Gilroy/Morgan Hill to San José Diridon Station	15 to 40
Hwy 17 Express Route (Route 970)	Downtown Santa Cruz/Scotts Valley to Downtown San José	20 to 35

VTA Light Rail Transit and Train Service

VTA's 42.2-mile LRT system operates nearly 24-hours a day with 15-minute headways during much of the day. The St. James LRT station platforms on both First and Second Streets are located less than 1000 feet from the project site. The San José Diridon station is located approximately one mile west of the project site along the Green LRT line and serves as a transfer point to Caltrain, Altamont Commuter Express, and Amtrak services.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?	☐	☐	☐	☒	☐
b) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐
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)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

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

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Pedestrian Facilities

The existing 12-foot wide sidewalks would be maintained along the project's frontages on North 4th Street and East St. John Streets. Crosswalks and pedestrian signal heads are available on all four approaches at the intersection of North 4th Street and East St. John Street. Existing ADA ramps are available at all corners of the intersection except the southwest corner of the intersection. Additionally, crosswalks are not present at any of the approaches at the intersection of North 5th Street and East St. John Street. The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development for the purpose of enhancing the pedestrian experience in the greater downtown area. To improve pedestrian access to and from the project site, consistent with the DSMP, the project shall implement the following Condition of Approval.

Condition of Approval: The project shall improve/replace the pedestrian ramps at the northeast and southeast corner of the North 4th Street and East St. John Street intersection.

With implementation of the above condition of approval, the proposed project would not conflict with a plan, ordinance, or policy addressing pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Bicycle Facilities

The existing bike lane on North 4th Street is part of the City's Better Bikeways Improvements program. The planned improvements will switch the position of the bike lane with on-street parking spaces and loading spaces along North 4th Street between St. James Street and San Fernando Street. The planned bikeway will use parked vehicles to create a barrier and increase the separation between the bikeway and travel lanes. The proposed improvements will not affect existing on-street parking along the project frontage; however, the project shall implement the following Condition of Approval, consistent with the San José Bike Plan 2020 and Better Bikeways SJ.

Condition of Approval: The project shall construct the planned bikeway along North 4th Street and St. John Street as part of the City's Better Bikeway Improvements program.

Overall, the planned improvements will improve the safety and accessibility of the bicycle network around the project site. In addition, the planned improvements will be made within the existing right-of-way and would not result in a significant environmental impact. For these reasons, the proposed project would not conflict with a plan, ordinance or policy addressing bicycle facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Transit Facilities

The project site is near major transit services that would provide the opportunity for multi-modal travel to and from the project site. The St. James LRT station is a transit transfer point between VTA bus and light rail services. Northbound and southbound platforms located on South 1st Street and South 2nd Street, respectively, are connected by pathways within St. James Park and are located within walking distance, less than 1,000 feet from the project site. A bus stop at the intersection of Santa Clara Street at North 5th Street provides access to major bus lines, including Express Route 522, and is also walking distance from the project site. In addition, the San José Diridon Station is located along the Green LRT line and serves as a transfer point to Caltrain, ACE, and Amtrak services. The Downtown Strategy 2040 FEIR determined that new transit trips generated by the project would not generate a demand in excess of transit services currently provided. The proposed project would not conflict with the operation of existing or planned transit facilities. The proposed project would not conflict with a plan, ordinance or policy addressing transit 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)?

Based on the Downtown Strategy 2040 FEIR, future development within the downtown area would result in low VMT on a per-capital basis. The proposed project is located within the downtown area which does not exceed residential VMT per capita thresholds (refer to Figure 3.15-6 and Table 3.15-7 of the Downtown Strategy 2040 FEIR). For these reasons, the project would not conflict 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)?

Based on the site plan, the project would have a 26-foot wide driveway on North 4th Street, which meets the City's minimum width of 26 feet for two-way commercial driveways. The City typically requires building entrances to be located at least 50 feet from the face of the curb in order to provide adequate stacking space for at least two inbound vehicles. The project provides adequate queuing space at the garage entrance.

There are no existing trees or visual obstructions along the west project frontage on North 4th Street that would obscure sight distance at the project driveway, however, the project would plant street trees as part of the project. The City will review the final site design for adequate sight distance at the egress driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. North 4th Street has a posted speed limit of 30 mph. The AASHTO stopping sight distance for a facility with a posted speed limit of 30 mph is 200 feet. Thus, a driver exiting south from the proposed project driveway must be able to see 200 feet to the north along North 4th Street in order to stop and avoid a collision. The project driveway would be located 300 feet south of the North 4th Street/St. James Street intersection. In addition, turn movements from the project driveway would be restricted to right-turns only due to the one-way operations of North 4th Street. Thus, the sight distance from the proposed driveway location to the North 4th Street/St. James Street intersection would be adequate, and the project would not substantially increase hazards due to a geometric design feature. **[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 for emergency access. As such, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.1 *Operational Transportation Issue Not Covered Under CEQA*

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 proposed project is part of planned growth in the downtown; therefore, no CEQA transportation analysis is required. A Local Transportation Analysis (LTA) shall be prepared to identify any operational issues associated with the project. The following discussion is included for informational purposes only.

Trip Generation

The proposed project would generate 1,288 daily automobile trips, with 71 trips (27 inbound and 44 outbound) occurring during the AM peak hour and 106 trips (57 inbound and 49 outbound) occurring during the PM peak hour. The proposed project is intended to serve as student housing for San Jose State University (SJSU). The availability of bicycle lanes and sidewalks throughout downtown, and the project's proximity to major transit services and SJSU would encourage the use of multi-modal

travel options (bicycling and walking) and reduce the use of single-occupant automobile travel. Therefore, this trip estimate may represent an over-estimation of traffic.

Parking

According to the City of San José Downtown Zoning Regulations (Section 20.70.100), the project is required to provide one off-street vehicle parking space per residential unit. No off-street parking spaces are required for the proposed retail space. Based on the City's off-street parking requirements, the proposed 298-unit residential tower would be required to provide a total of 298 off-street parking spaces.

The project proposes to provide a total of 287 on-site parking spaces: 266 parking spaces for the residential units and 21 spaces for visitors. This represents a 3.6 percent reduction from the required 298 off-street parking spaces. However, the project is located in the downtown area and is proposing a mixed-use of residential and retail uses. Therefore, the project is eligible for a 15 percent reduction in off-street parking spaces, which equates to 45 spaces. As a result, the project would require a total of 253 parking spaces. Therefore, the project would exceed the required number of parking spaces per the City code.

Bicycle Parking

The City of San Jose Standards require one bicycle parking space per four living units. The proposed project is required to provide a total of 75 bicycle parking spaces for the proposed residential units: 45 long-term bicycle parking spaces and 30 short-term bicycle parking spaces. The site plan indicates a bike storage room located within the ground floor level with space for up to 426 bicycles; therefore, the proposed on-site bicycle parking would exceed the City bicycle parking requirements.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

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 CRHR[46]
    - 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.

Local

Envision San José 2040 General Plan

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

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

[46] 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)).

General Plan Policies – Environmental Resources	
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*

No TCRs, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project cause a substantial adverse change in the significance of a TCR, 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 CRHR, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐
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.	☐	☐	☐	☒	☐

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

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)?

Where a project may have a significant impact on a TCR, 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 TCRs are identified consistent with AB 52.

Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR and project-specific Archaeological Resources Treatment Plan. For these reasons, the proposed project would have a less than significant impact on tribal cultural resources. **[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?

See response to Checklist Question a). **[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 City 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.

Local

San José Zero Waste Strategic Plan/Green Vision

The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and

zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

San José Construction & Demolition Diversion Program

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

Envision San José 2040 General Plan

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

General Plan Policies - Utilities & Service Systems	
Water Conservation and Quality Policies	
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 reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.
General Provision of Infrastructure Policies	
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.
IN-1.6	Ensure that public facilities and infrastructure are designed and constructed to meet ultimate capacity needs to avoid the need for future upsizing. For facilities subject to incremental upsizing, initial design shall include adequate land area and any other elements not easily expanded in the future. Infrastructure and facility planning should discourage over-sizing of infrastructure which could contribute to growth beyond what was anticipated in the 2040 General Plan.
Water Supply, Sanitary Sewer, and Storm Drainage Policies	
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System

General Plan Policies - Utilities & Service Systems	
	permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
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-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Wastewater Treatment and Water Reclamation Policies	
IN-4.6	Encourage water conservation and other programs which result in reduced demand for wastewater treatment capacity.
Solid Waste – Materials Recovery/Landfill Policies	
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
Development Fees, Taxes, and Improvement Requirements Policies	
IP-15.2	To finance the construction and improvement of facilities and infrastructure systems for which the demand for capacity cannot be attributed to a particular development, consider a series of taxes or fees through which new growth collectively finances those facilities and systems, as follows: 1. Construction Tax and the Conveyance Tax (the latter paid in connection with any transfer of real property, not just new development) provide revenue for parks, libraries, library book stock, fire stations, maintenance yards and communications equipment. 2. The Building and Structures Tax and Commercial/Residential/Mobilehome Park Tax provide revenue for the construction of San José's major street network. 3. Connection Fees provide revenue for the construction of storm sewers, sanitary sewers and expansions of sewage treatment capacity. 4. Fees and taxes may need to be adjusted from time to time to reflect changing costs and new requirements. Additionally, new fees or taxes may need to be imposed to finance other capital and facility needs generated by growth.

General Plan Policies - Utilities & Service Systems	
	5. Where possible, if a developer constructs facilities or infrastructure for which these taxes are imposed, the developer may be provided with corresponding credits against the applicable taxes or fees.

4.19.2 Existing Conditions

Water Service

Water service is provided to the City of San José by three water retailers, the San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the San José Water Company. For the purposes of this analysis, it is assumed that the one occupied residence currently uses no water.

Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[47] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations.

The Downtown Strategy 2040 FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 95 percent of business use (assuming no internal recycling or reuse programs). Because no water use is currently assumed, no wastewater can be assumed to be generated at the site.

Storm Drainage System

A 24-inch line in East St. John Street and a 60-inch line in North 4th Street currently serve the project site. The project site is 66 percent impervious, and the receiver site is 100 percent impervious.

Solid Waste

Waste collection and recycling services are available to businesses from private companies franchised by the City of San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year with adequate disposal capacity (i.e., greater

[47] City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed March 9, 2022. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.

than 15 years).[48,49] For the purposes of this analysis, the project site is assumed to generate no solid waste.

4.19.3 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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?	☐	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

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

[48] City of San José. *Assessment of Infrastructure for the Integrated Waste Management Zero Waste Strategic Plan Development*. 2008.
[49] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 22, 2016. Accessed February 25, 2019. https://www.sccgov.org/sites/rwr/rwrc/Documents/Revised%20June%2022%20RWRC%20Packet.pdf.

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?

Water Supply

The proposed project would generate a water demand of approximately 24,358 gpd of water.[50] Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The Downtown Strategy 2040 FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the Downtown Strategy 2040 would not exceed the available water supply.

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

Sanitary Sewer

The project would generate approximately 19,486 gpd of wastewater. [51] The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. As discussed in the Downtown Strategy 2040 FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. Since the proposed development is consistent with planned growth in the downtown area, the project would not exceed the City's allocated capacity at the Facility. The project would not result in the relocation, expansion, or construction of sanitary sewer facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Storm Drainage System

The proposed project would increase impervious surfaces by 7,400 square feet compared to existing conditions. The proposed project, however, would be required to implement post-construction BMPs and TCMs consistent with Council Policy No. 6-29. Additionally, the project would be required to comply with the RWQCB MRP (refer to Section 4.10 Hydrology and Water Quality). As a result, implementation of the proposed project would not require relocation or expansion of existing facilities or construction of new facilities and would have a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[50] Water usage rates were calculated using CalEEMod Appendix D (University/College [4yr] and Regional Shopping Center). CalEEMod. "Table 9.1: Water Use Rates." Accessed July 12, 2019. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.
[51] Assumes wastewater is equal to 80 percent of total potable water use on-site.

Electric Power, Natural Gas, and Telecommunication Facilities

The project would utilize existing utility connections to connect to the City's electric and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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?

As discussed under Checklist Question a), 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 is large, San José Water concluded that the increase was already accounted for in San José Water's 2015 UWMP. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, sufficient water supplies would be available to serve the project. **[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 proposed project would be consistent with the planned growth in the Downtown Strategy 2040 and would have adequate capacity to serve the project in addition to the Facility's existing commitments (refer to discussion under Checklist Question a). **[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 project would generate approximately 1,480 pounds of solid waste per day.[52] The Downtown Strategy 2040 FEIR concluded that waste generated by planned growth in the downtown area would not exceed the capacity of existing landfills serving the City of San José. The estimated increases in solid waste generation from development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Waste Strategic Plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts

[52] Solid waste disposal rates were calculated using CalEEMod Appendix D (University/College [4yr] and Regional Shopping Center). CalEEMod. "Table 10.1: Solid Waste Disposal Rates." Accessed July 12, 2019. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

on solid waste disposal capacity in excess of state or local standards or in excess of landfill capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

See response to Checklist Question d). **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located in a fire hazard zone or the Wildland Urban Interface.[53]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a) Impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐	☐
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?	☐	☐	☒	☐	☐
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?	☐	☐	☒	☐	☐
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?	☐	☐	☒	☐	☐

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)**

[53] CALFIRE. "Santa Clara County Fire Hazard Severity Zones in SRA". Accessed February 25, 2019. http://frap.fire.ca.gov/webdata/maps/santa_clara/fhszs_map.43.pdf.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	☐	☐	☐	☒	☐
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)?	☐	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐

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?

The project could result in impacts to migratory birds and trees due to the tree removals proposed during the project's construction. The project could also result in impacts to the historic buildings on-site during the relocation of the historic structures. With the implementation of the identified standard permit conditions, conditions of approval, and mitigation measures described in Section 4.4 Biological Resources and Section 4.5 Cultural Resources, the proposed project would not result in significant environmental impacts to those resources. **[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 the implementation of the identified Standard Permit Conditions, and measures identified in the Downtown Strategy 2040 FEIR, Best Management Practices, Mitigation Measures, and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts are temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on air quality, water quality, biological resources, and noise.

Implementation of the proposed project would result in the loss of on-site trees; however, the trees would be replaced on-site. 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.

Grading and excavation activities may result in the loss of unknown subsurface prehistoric and historic resources on-site. The project would implement the standard measures identified in the Downtown Strategy 2040 FEIR and, as a result, the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

Because criteria air pollutant and GHG 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 developed such that a project-level impact would also be a cumulatively considerable impact. The project would not result in significant criteria air pollutant emissions or GHG emissions; however, the project would contribute to the overall GHG impact previously identified in the Downtown Strategy 2040 FEIR. The contribution would not, however, be cumulatively considerable. Implementation of the proposed project would result in the same cumulative air quality and GHG emissions impacts as the approved Downtown Strategy 2040 Plan.

The project site is located on a closed Leaking Underground Storage Tank (LUST) site and could result in exposure of construction workers to residual contamination. The project would implement MM HAZ-1.1 and Standard Permit Conditions and, as a result, would not have a cumulatively considerable hazardous materials impact.

The project's contribution to cumulative impacts on land use, population and housing, public services, recreation, and transportation were analyzed in the Downtown Strategy 2040 FEIR. The proposed project would not result in a more significant cumulative impact related to these issues than disclosed within the FEIR.

The project would have no impact or a less than significant impact on aesthetics, geology and soils, agricultural and forest resources, or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources. **[Same Impact as Approved Project (Significant Unavoidable 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. The potential for the proposed project to indirectly affect human beings is represented by all of the designated CEQA issue areas; those that could directly affect human beings include construction air quality, hazardous materials, and noise. Implementation of the mitigation measures and standard permit conditions identified in this Addendum, consistent with applicable General Plan policies, would reduce these impacts to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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Hexagon Transportation Consultants, Inc.
Gilroy, CA
Transportation Analysis

Illingworth & Rodkin
Cotati, CA
Air Quality, GHG, and Noise Reports

Holman & Associates, Inc.
San Francisco, CA
Archaeology Report

Archives & Architecture, LLC
San José, CA
Historic Resources Report

TreanorHL
San Francisco, CA
Historic Resources Report & Preservation Plan