

# Draft Supplemental Environmental Impact Report

## Museum Place Mixed-use Project

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Prepared by



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# TABLE OF CONTENTS

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Acronyms and Abbreviations.....	iv
Summary .....	v
Section 1.0 Introduction.....	1
1.1 Purpose of the Environmental Impact Report .....	1
1.2 EIR Process.....	1
Section 2.0 Project Information and Description.....	5
2.1 Project Location.....	5
2.2 Existing Conditions .....	5
2.3 Project Overview .....	5
2.4 Project Components.....	14
2.5 Project Objectives.....	15
2.6 City of San José Objectives .....	16
2.7 Uses of the EIR.....	16
Section 3.0 Environmental Setting, Impacts, and Mitigation .....	17
3.1 Land Use and Planning.....	19
3.2 Energy.....	31
Section 4.0 Cumulative Impacts .....	41
4.1 Cumulative Project Impacts.....	41
4.2 Conclusion .....	42
Section 5.0 Growth-Inducing Impacts .....	43
Section 6.0 Significant and Irreversible Environmental Changes .....	44
Section 7.0 Significant and Unavoidable Impacts .....	45
Section 8.0 Alternatives .....	46
Section 9.0 References.....	52
Section 10.0 Lead Agency and Consultants.....	55
10.1 Lead Agency.....	55
10.2 Consultants .....	55

## Figures

Figure 2.1-1: Regional Map .....	6
Figure 2.1-2: Vicinity Map .....	7
Figure 2.1-3: Aerial Photograph with Surrounding Land Uses .....	8
Figure 2.3-1: Conceptual Site Plan (Ground Level) .....	9

Figure 2.3-2:	Building Cross Section.....	10
Figure 2.3-3:	Building Elevation – Park Avenue.....	11
Figure 2.3-4:	Building Elevation – South Market Street .....	12
Figure 2.3-5:	Building Elevation – West San Carlos Street.....	13
Figure 3.1-1:	Shade and Shadow – Existing Conditions.....	27
Figure 3.1-2:	Shade and Shadow – Proposed Conditions .....	28
Figure 8.0-1:	Design Alternative Shading Diagram .....	50

## **Tables**

Table 3.2-1:	Private Sector Green Building Policy Applicable Projects .....	32
Table 3.2-2:	Estimated Annual Energy Use of Existing Development .....	35
Table 3.2-3:	Estimated Annual Energy Use of Proposed Project .....	36
Table 3.2-4:	Annual Energy Demand Summary .....	37
Table 8.0-1:	Comparison of Project and Design Alternative .....	49

## **Appendices**

Appendix A:	Initial Study
Appendix B:	Air Quality Analysis
Appendix C:	Historic Evaluation
Appendix D:	Geotechnical Investigation
Appendix E:	Phase I Environmental Site Assessment
Appendix F:	Noise Analysis
Appendix G:	Traffic Operations Study
Appendix H:	Water Supply Assessment
Appendix I:	Notice of Preparation (NOP) and NOP Public Comment Letters

## ACRONYMS AND ABBREVIATIONS

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CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
FEIR	Final Environmental Impact Report
IS	Initial Study
MND	Mitigated Negative Declaration
SEIR	Supplemental Environmental Impact Report

## SUMMARY

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The project proposes construction of a mixed-use tower (24 stories) with up to 306 dwelling units, 184 hotel rooms, 209,395 square feet of office space, 13,402 square feet of retail, and a 60,475 square foot expansion for additional spaces for the adjacent Tech Museum of Innovation (Tech Museum). The following is a summary of the significant impacts and mitigation measures addressed within this EIR. The project description and full discussion of impacts and mitigation measures can be found in of this EIR.

Significant Impacts	Mitigation Measures
	<b>Land Use – Section 3.1</b>
Shadows cast by the proposed building would have a significant impact on Plaza de César Chávez.	<p><b>MM LU-1.1:</b> The project applicant shall contribute \$100,000 to the Parks and Community Facilities Development Capital Improvement Program (Program) to develop and implement an Improvement plan to:</p> <ol style="list-style-type: none"><li>1. Provide an enhanced lighting system for the shaded area of the park, and</li><li>2. Replace vegetated areas affected by the shade with less sensitive and more permanent material.</li></ol> <p>This fee shall be a one-time amount and shall be paid prior to issuance of any building permits.</p> <p>The project applicant shall also submit the Improvement Plan to the City’s Director of the Department of Parks, Recreation and Neighborhood Services for review and approval. The improvement Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"><li>• Design and construction drawings</li><li>• Lighting study</li><li>• Lighting fixtures</li><li>• Energy consumption</li><li>• Replacement of turf and sod</li></ul> <p>This mitigation would not reduce the impact to a less than significant level.</p>
	<b>Significant Unavoidable Impact</b>

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### Cumulative Impacts

The proposed project would have the following significant cumulative impacts:

- With implementation of the proposed project, Plaza de César Chávez would have a permanent increase in shading during the afternoon hours in the winter months. This

increase in shading would be cumulatively considerable when combined with any future development that may shade the park.

The cumulative impact would be significant and unavoidable. Please see Section 4.0 for a complete analysis.

### **Summary of Alternatives to the Proposed Project**

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which “would feasibly attain the most basic objectives of the project but would avoid or substantially lessen many of the significant environmental effects of the project.” Below is a summary of the project alternatives. A full analysis of the project alternatives is provided in Section 8.0 of this EIR.

#### **A. NO PROJECT ALTERNATIVE**

The No Project – No Development Alternative would retain the exhibit building and continue the current operations. If the project site were to remain as is there would be no new impacts. Please refer to Section 8.0 for a full analysis of this alternative.

#### **B. DESIGN ALTERNATIVE (REDUCED INTENSITY)**

As proposed, the project would demolish Parkside Hall to construct a mixed-use building with residential, office, hotel, and ground floor retail. Under the Design Alternative, the building would be reduced in height from 270 feet (24 stories) to 108 feet (nine stories). In addition, the overall building shape would be modified to be a solid rectangle to accomplish as much of the development program as possible. The modification to the building height and design would result in a total building size of 621,000 square feet, a net reduction of 237,997 square feet compared to the proposed project.

Using the square footages of the proposed project (Section 2.4 of the Project Description), the office, retail, hotel, and Tech Museum expansion components of the project total approximately 505,000 square feet of the building area, including the common use areas. Given a total building size of 621,000 square feet, the remaining square footage available for residential uses would be 116,158 which could accommodate up to 117 residential units.

Please refer to Section 8.0 for a full analysis of this alternative.

#### **C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the design alternative because the project’s significant unavoidable shading impact would be avoided. The design alternative would achieve most of the objectives of the proposed project.

### **Areas of Known Controversy**

There are no known areas of controversy regarding the project.

## **SECTION 1.0 INTRODUCTION**

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### **1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT**

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) for the Museum Place Mixed-Use project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, cumulative impacts, alternatives, and growth-inducing impacts. It is not the intent of an EIR to recommend either approval or denial of a project.

### **1.2 EIR PROCESS**

#### **1.2.1 Overview**

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

The Downtown Strategy 2000 has a development capacity of 8,500 residential units, with 7,500 allowed in Phase 1. At the time the NOP for the proposed Museum Place Mixed-Use Project was circulated, these development levels had not been met including constructed, approved, and projects currently on file.

The 2005 Downtown Strategy 2000 EIR evaluated all environmental impacts, including traffic, noise, air quality, biological resources, and land use at a program (General Plan) level. The program-level environmental impacts were updated as part of the Envision San José 2040 General Plan EIR, as supplemented (2015). Therefore, the 306 residential units, 222,797 combined square feet of retail and office space, and 184 hotel rooms included in the proposed project have been evaluated in the 2005 EIR at a program-level.

Further, an Addendum to the Downtown Strategy 2000 EIR was prepared in July 2016 which updated traffic conditions a decade after the 2005 EIR was certified, and determined that no new

impacts would occur related to the construction of Phase 1 of the Downtown Strategy 2000 (7,500 residential units). Utilizing 2014-2015 traffic counts and the City's updated CUBE model, it was determined that up to 7,500 units could be constructed within downtown without resulting in new or different traffic impacts than had been disclosed in the 2005 EIR. For this reason and those described above, the Downtown Strategy 2000 EIR continues to be an accurate evaluation of program-level impacts of proposed Phase 1 development projects downtown, of which this project is a part.

While traffic impacts of the Downtown Strategy 2000 were evaluated at a project- or site-specific level and recently updated in 2016, the 2005 EIR's analysis assumed that project-level site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This IS, completed as part of the Supplemental EIR (SEIR) for the proposed project, provides that subsequent project-level environmental review.

The Downtown Strategy 2000 EIR was a broad range, program-level environmental document. The EIR 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 EIR 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. All subsequent development that has occurred as part of the Downtown Strategy 2000 has had project specific supplemental environmental review.

In 2011, the City of San José approved the Envision San José 2040 General Plan, which is a long-range program for the future growth of the City. The Envision San José 2040 General Plan EIR as supplemented, was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the Envision San José 2040 General Plan EIR as supplemented, to be a program level document from which subsequent development consistent with the General Plan could tier.

This SEIR 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 2000 and the Envision San José 2040 General Plan.

### **1.2.2 Purpose of the SEIR**

In accordance with CEQA Guidelines Section 15163, the Lead or Responsible Agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- (1) Any of the conditions described in Section 15162 (Subsequent EIRs and Negative Declarations) would require the preparation of a subsequent EIR, and
- (2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

As such, the City has prepared an SEIR for the proposed project to disclose any new or more severe impacts than were identified in the San José Downtown Strategy 2000 EIR and the Envision San José 2040 General Plan EIR as supplemented.



In accordance with CEQA, this SEIR provides objective information regarding the environmental consequences of the proposed project to the decisions makers who will be considering and reviewing the proposed project. The CEQA Guidelines contain the following general information of the role of an SEIR and its contents:

**Section 15121(a) – Informational Document.** An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.

**Section 15145 – Speculation.** If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

**Section 15151 – Standards for Adequacy of an EIR.** An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

### **1.2.3      Tiering From Previous EIRs**

In accordance with CEQA, this SEIR will supplement the Downtown Strategy 2000 EIR and tier from both the Envision San José 2040 General Plan EIR and the Downtown Strategy 2000 EIR. The CEQA Guidelines contain the following information on tiering an environmental document:

**Section 15152 – Tiering.** (a) “Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the EIR or negative declaration solely on the issues specific to the later project.

(b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequences of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

#### **1.2.4            Focusing the SEIR**

The City of San José prepared an Initial Study (see Appendix A of this SEIR) that determined that preparation of an SEIR was needed for the proposed Museum Place Mixed-Use project. The Initial Study concluded that the SEIR should focus on land use compatibility with regard to increased shading of public open space. The SEIR also discusses energy as a required analysis in an EIR. The issues of aesthetics, agricultural/forestry resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, population and housing, public services, recreation, noise, transportation, and utilities were analyzed in the Initial Study. The project's impacts in these study areas were determined to be less than significant, and conform to General Plan policies that will be made conditions of approval of the project, and/or it was determined that the project would not result in any new or more significant impacts in these resource areas than those addressed in the Envision San José 2040 General Plan EIR and Downtown Strategy 2000 EIR.

As stated above, the analysis in the Initial Study determined that the only environmental resources affected by the proposed project would be land use. All other impacts from the proposed project would be less than significant or consistent with the significant impacts previously disclosed in the EIRs noted above, and are not addressed further in this SEIR.

#### **1.2.5            Noticing and Availability**

In accordance with Section 15082 of the CEQA Guidelines, a Notice of Preparation (NOP) was circulated to the public and responsible agencies for input regarding the analysis in this SEIR. This SEIR addresses those issues which were raised by the public and responsible agencies in response to the NOP. The NOP and copies of the comment letters received are provided in Appendix I of this SEIR.

This SEIR 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 E. Santa Clara Street, 3<sup>rd</sup> floor, during normal business hours.

## **SECTION 2.0      PROJECT INFORMATION AND DESCRIPTION**

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### **2.1              PROJECT LOCATION**

The 2.35-acre project site is comprised of one parcel located on Park Avenue between South Market Street and South Almaden Boulevard in downtown San José (see Figures 2.1-1, 2.1-2, and 2.1-3).

### **2.2              EXISTING CONDITIONS**

Currently, most of the site is occupied by a stand-alone facility (Parkside Hall) and the adjacent Tech Museum of Innovation. The project site (the entire parcel) is currently designated Public/Quasi-Public under the City of San José's adopted General Plan and is located in the DC – Downtown Commercial zoning district.

### **2.3              PROJECT OVERVIEW**

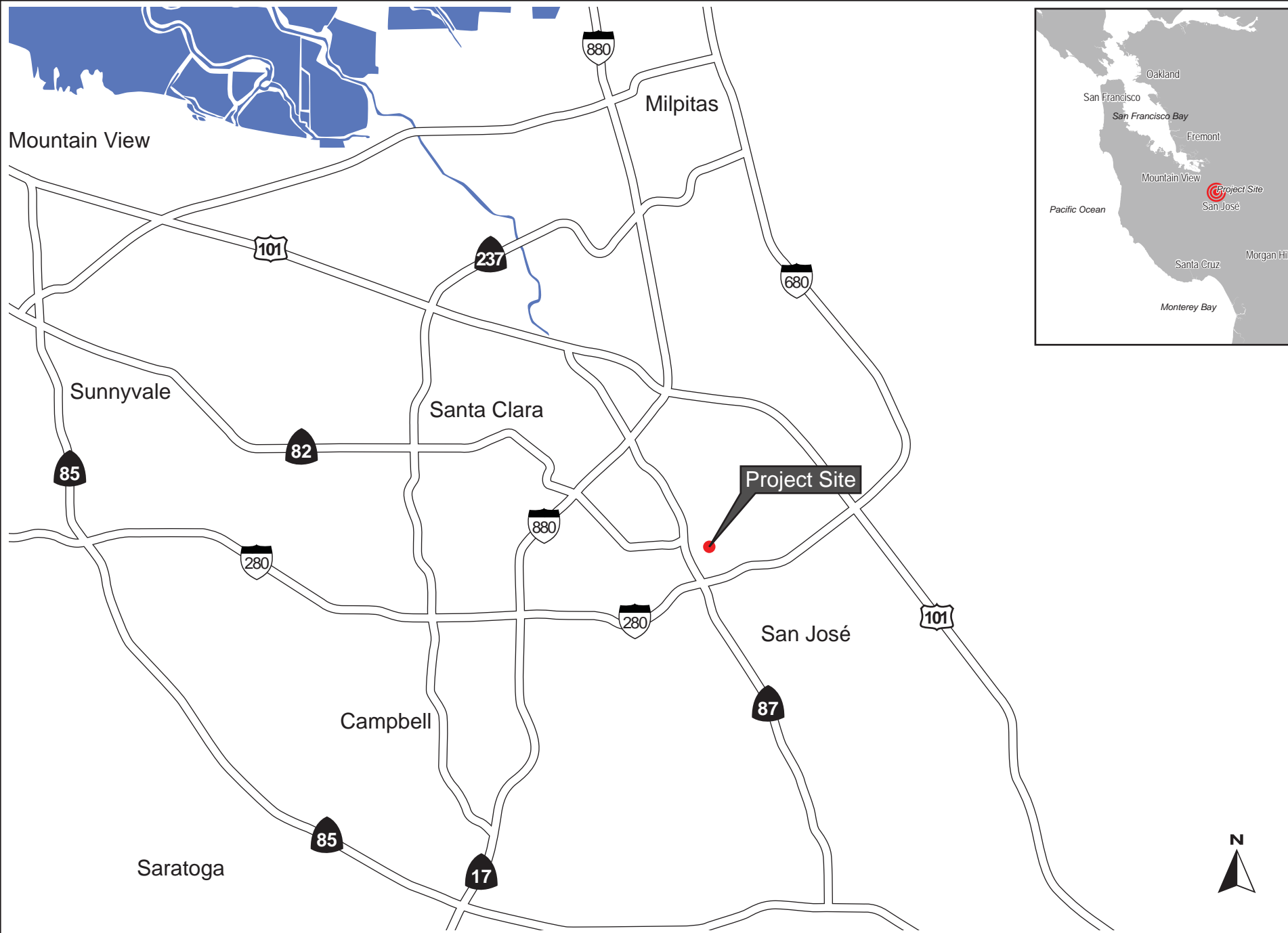
As proposed, the project would demolish Parkside Hall, approximately 30,000 square feet, and construct a 270-foot tall, 1.16 million square feet, mixed-use building with residential units, hotel rooms, and office and retail space. The building would also include an expansion of the Tech Museum. The first floor would contain the main lobby area, retail space, and museum expansion (refer to Figure 2.3-1 Site Plan). Floors two through five would consist of office space. Floors six through 10 would contain the hotel rooms and floors 11 through 24 would contain the residential units (see Figure 2.3-2 Conceptual Cross Section). The proposed building elevations are shown in Figure 2.3-3 to Figure 2.3-5 below.

As mentioned above, the project site is designated Public/Quasi-Public under the City of San José's adopted General Plan and has a zoning designation of DC – Downtown Commercial.

The Public/Quasi-Public designation is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. Joint development projects such as an integrated convention center/hotel/restaurant complex are allowed. Please refer to Section 3.1 Land Use and Planning for a complete discussion of the project's consistency with the Envision San José 2040 General Plan and zoning designation.

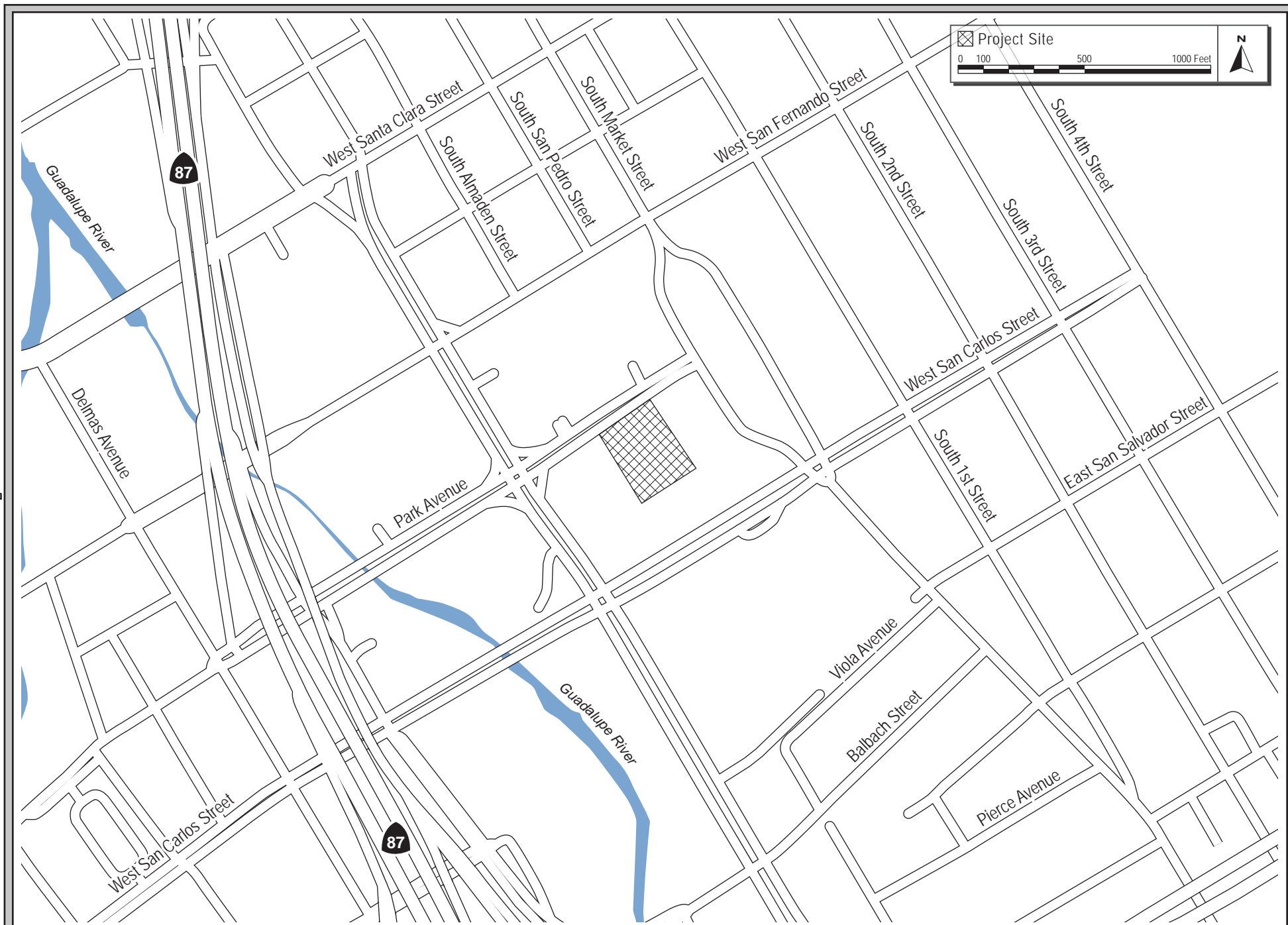
The Downtown Commercial zoning district allows multi-family residential as a permitted use provided the General Plan designation allows residential development. Based on the Downtown Commercial zoning, development shall only be subject to height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. There are no minimum setbacks requirements.

The primary project components are described below.



REGIONAL MAP

FIGURE 2.1-1



VICINITY MAP

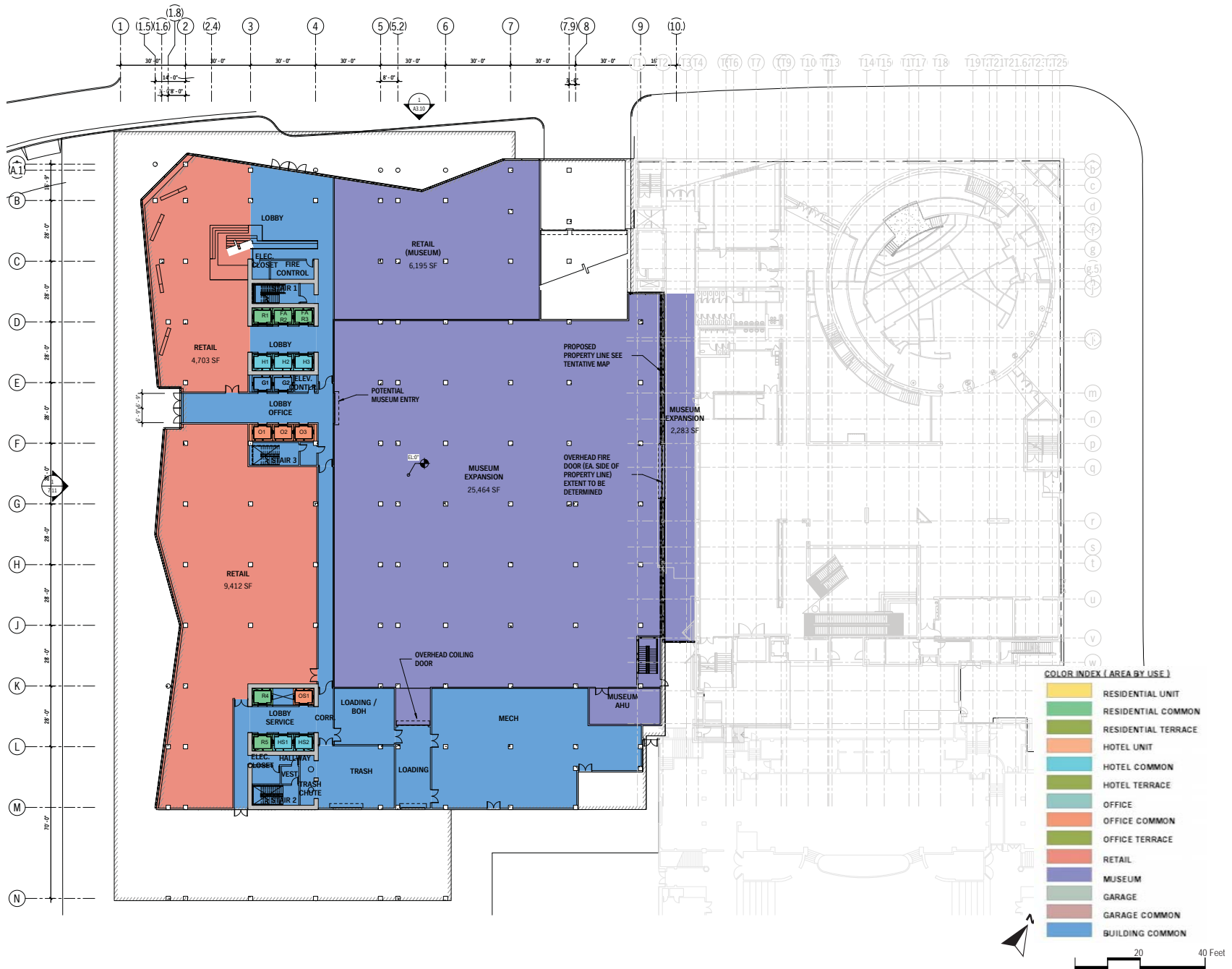
FIGURE 2.1-2





AERIAL PHOTOGRAPH WITH SURROUNDING LAND USES

FIGURE 2.1-3

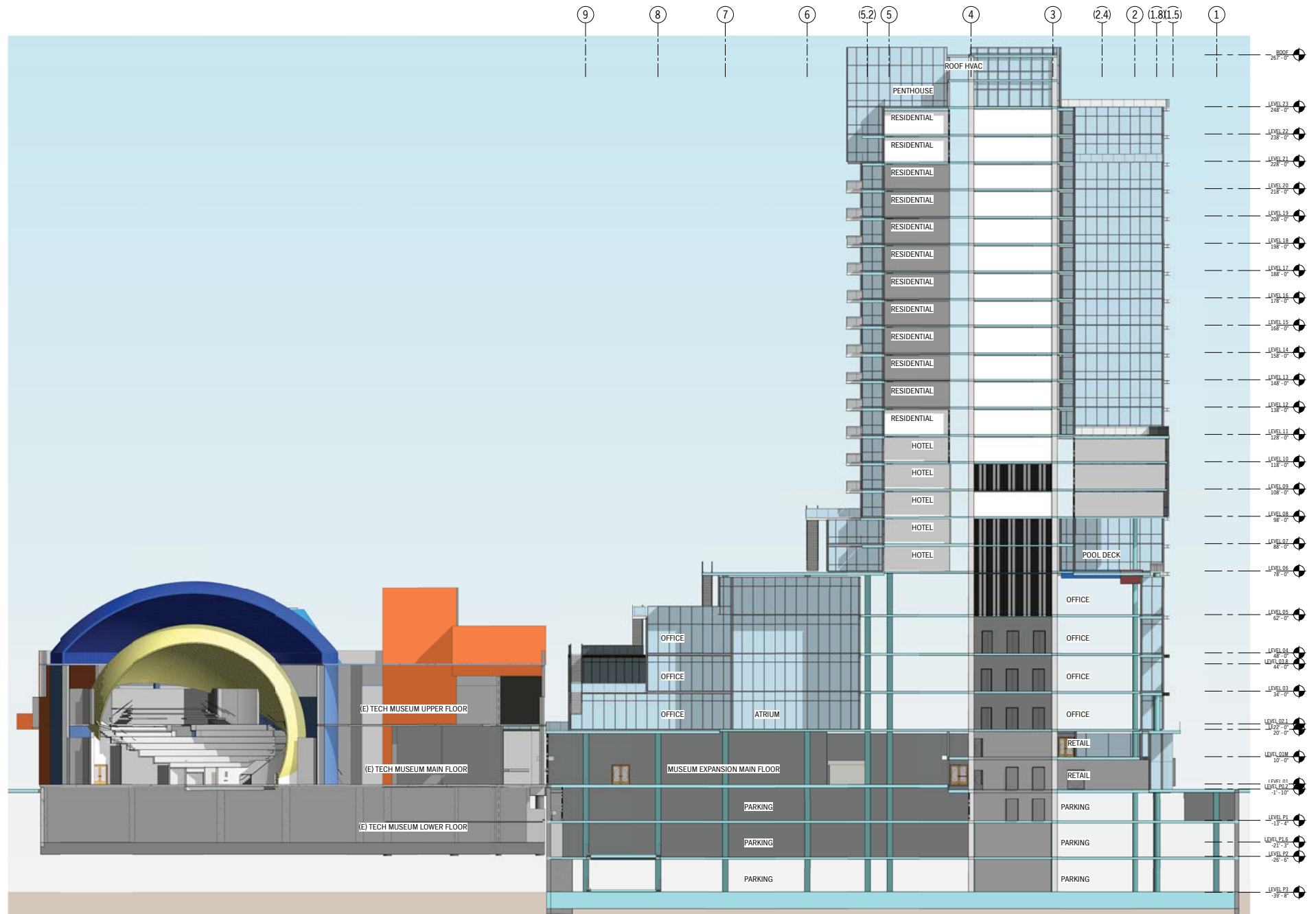


Source: Steinberg, 6/30/2016.

CONCEPTUAL SITE PLAN (GROUND LEVEL)

FIGURE 2.3-1



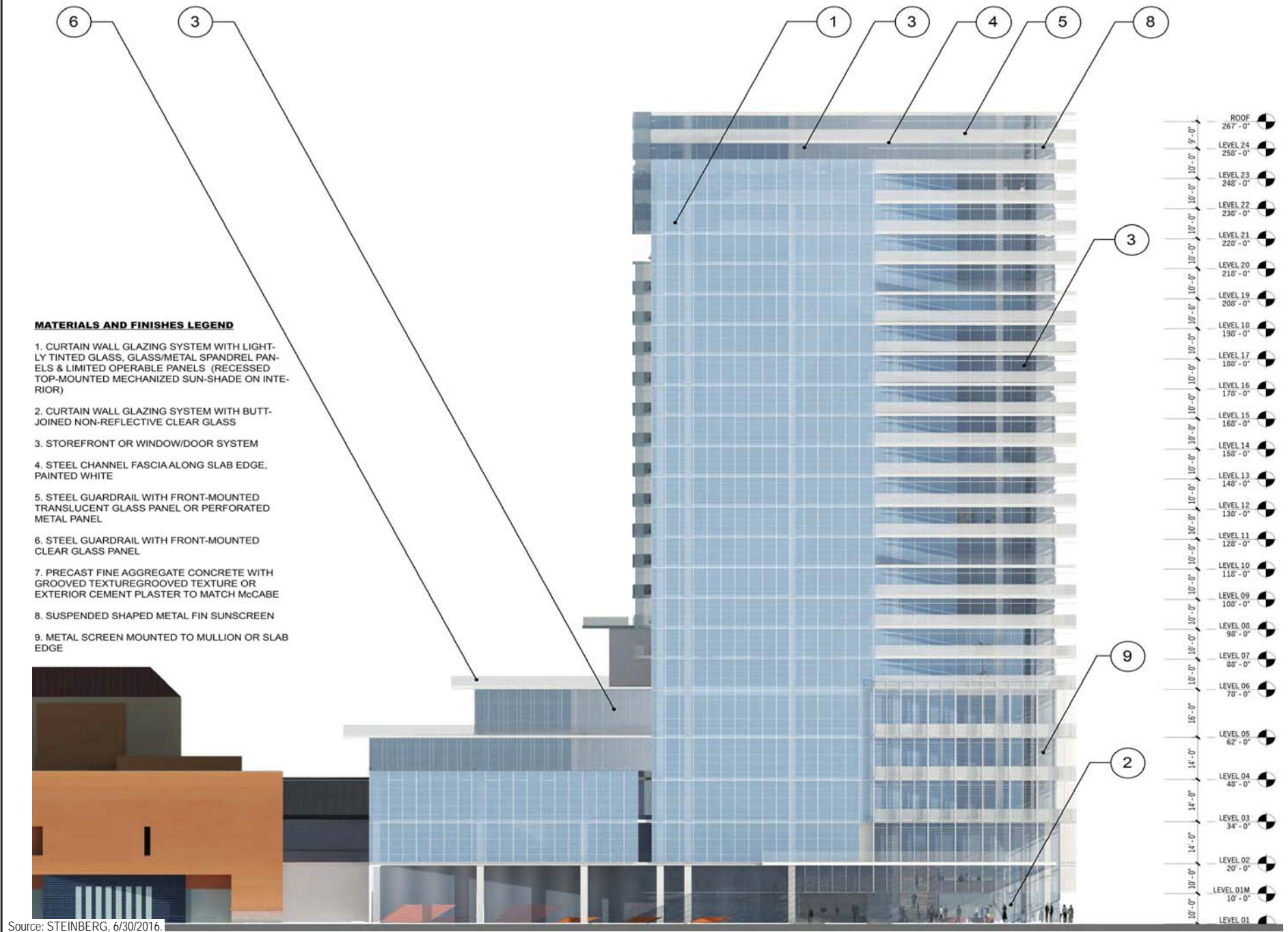


Source: Steinberg., 1/23/2017.

BUILDING CROSS SECTION

FIGURE 2.3-2

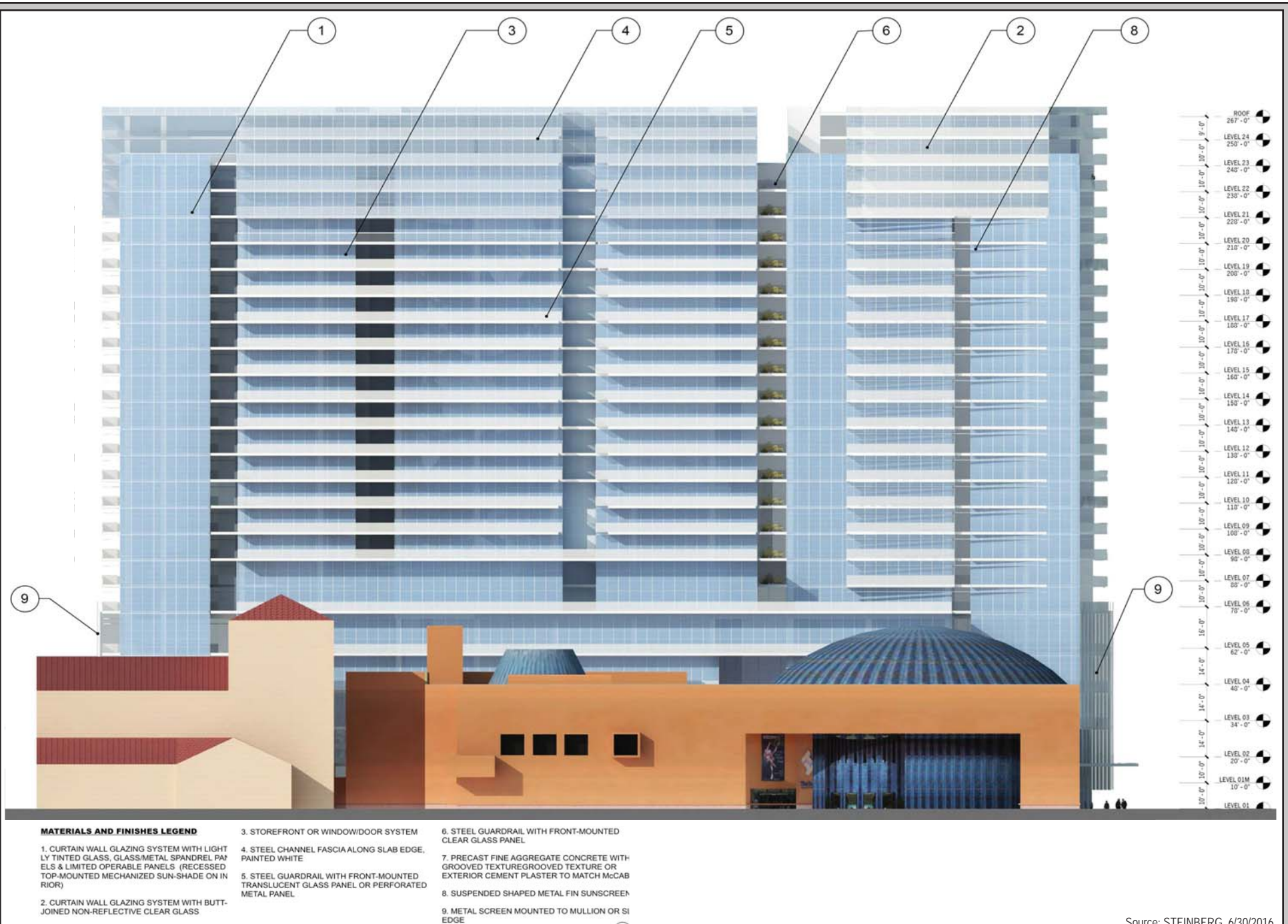




Source: STEINBERG, 6/30/2016.

BUILDING ELEVATION - PARK AVENUE

FIGURE 2.3-3

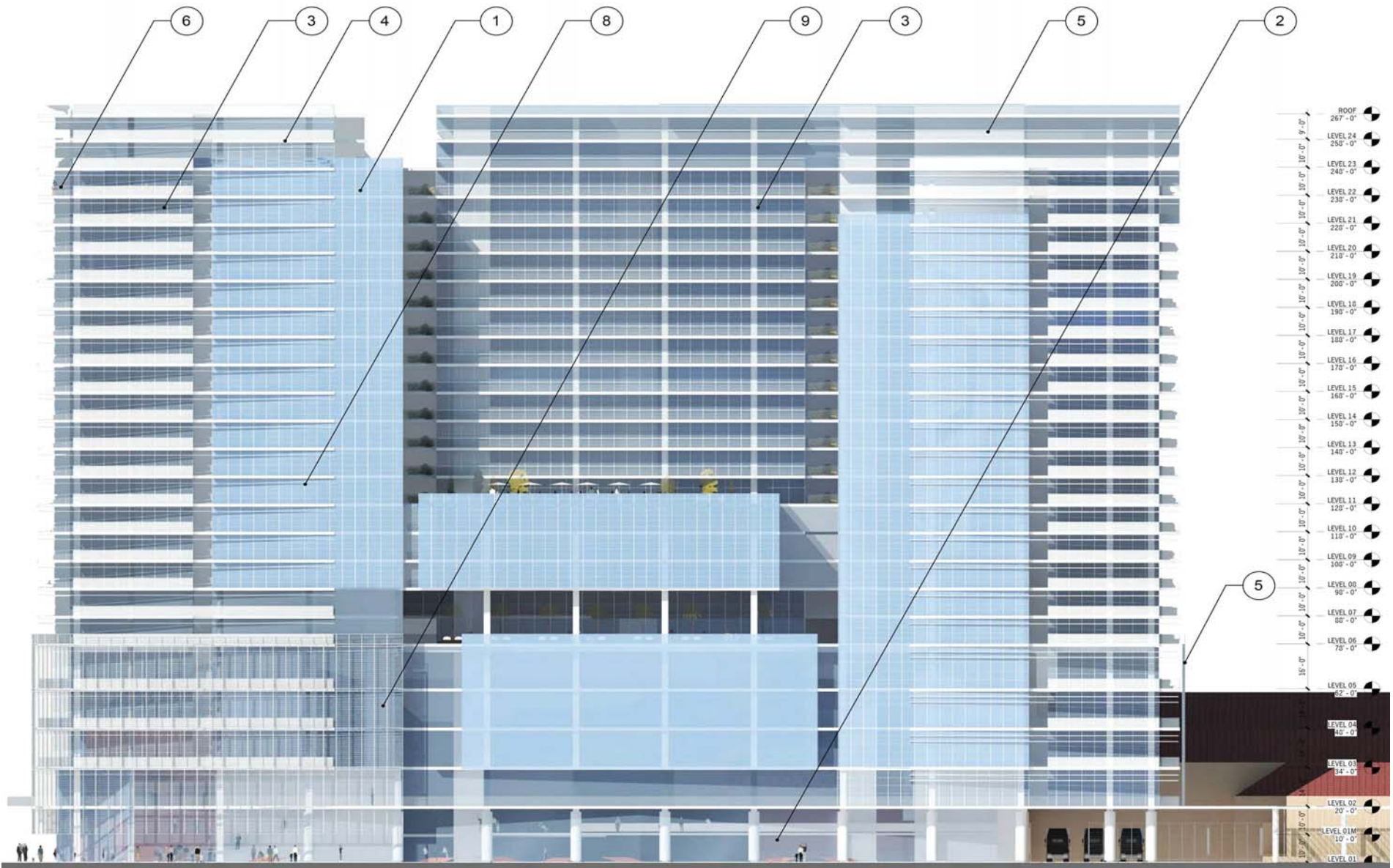


Source: STEINBERG, 6/30/2016.

BUILDING ELEVATION - SOUTH MARKET STREET

FIGURE 2.3-4





#### MATERIALS AND FINISHES LEGEND

1. CURTAIN WALL GLAZING SYSTEM WITH LIGHTLY TINTED GLASS, GLASS/METAL SPANDREL PANELS & LIMITED OPERABLE PANELS (RECESSED TOP-MOUNTED MECHANIZED SUN-SHADE ON INTERIOR)
2. CURTAIN WALL GLAZING SYSTEM WITH BUTT-JOINED NON-REFLECTIVE CLEAR GLASS
3. STOREFRONT OR WINDOW/DOOR SYSTEM

4. STEEL CHANNEL FASCIA ALONG SLAB EDGE, PAINTED WHITE
5. STEEL GUARDRAIL WITH FRONT-MOUNTED TRANSLUCENT GLASS PANEL OR PERFORATED METAL PANEL
6. STEEL GUARDRAIL WITH FRONT-MOUNTED CLEAR GLASS PANEL
7. PRECAST FINE AGGREGATE CONCRETE WITH GROOVED TEXTURE/GROOVED TEXTURE OR EXTERIOR CEMENT PLASTER TO MATCH McCABE

8. SUSPENDED SHAPED METAL FIN SUNSCREEN
9. METAL SCREEN MOUNTED TO MULLION OR SLAB EDGE

Source: STEINBERG, 6/30/2016.

BUILDING ELEVATION - WEST SAN CARLOS STREET

FIGURE 2.3-5

## **2.4 PROJECT COMPONENTS**

### **2.4.1 Museum Expansion**

The Tech Museum contains approximately 132,000 square feet of space. The project proposes to expand the museum by 60,475 square feet by developing a portion of the second floor and first below-grade parking level for use by the Tech Museum as additional display and storage space. An approximately 5,600 square foot retail space would also be included along Park Avenue. This area would be connected to the Tech Museum to allow access from both the proposed building and the existing building (refer to Figure 3.0-1).

### **3.3.2 Office and Retail**

The project proposes to develop approximately 209,395 square feet of office space on floors two through five. In addition, the common area and terrace area would have a combined total of 30,334 square feet. The project proposes up to 13,402 square feet of retail space on the ground level, along the western building façade, adjacent to the pedestrian paseo. The retail space(s) would have access directly from the adjoining paseo. The office would have its own ground level entrance lobby, with access from the pedestrian paseo, but would have dedicated elevators and stairwells to the office floors.

### **3.3.3 Residential and Hotel**

The project proposes to develop up to 306 residential units with a combined total of approximately 294,931 square feet. As shown on Figure 2.3-1, the residential units are proposed on floors 11 through 24. The residential common area and terrace area would have a combined total of 136,304 square feet.

The project proposes to develop up to 184 hotel rooms with a combined total of approximately 92,456 square feet. As shown on Figure 2.3-2, the hotel rooms are proposed on floor six through 10. An outdoor swimming pool and a terrace area are proposed on the sixth floor. Other hotel amenity space would be located on floors six, seven, and eight of the site, but the uses have not yet been defined. The total common area and terrace area for the hotel would be approximately 74,079 square feet.

The residences and hotel would share a lobby at the northwest corner of the building, but would have dedicated elevators for each use.

### **2.4.2 Site Access and Parking**

Pedestrian access to the project site would be provided via existing sidewalks on the project frontage along Park Avenue and a paseo located along the western edge of the project site.

The project proposes a three-story below-grade parking garage with a total of 1,000 parking stalls. Mechanical lift parking is being proposed on each of the parking levels and all parking in the garage would be valet only. A residential and hotel drop-off/pick-up area would be located on the first floor. Vehicles for the office use would enter the parking garage and make an immediate right-turn down to the second level drop-off/pick-up area. Vehicular access to the parking garage would be provided

via a proposed driveway on Park Avenue. The parking garage would include two standard parking spaces, 454 mechanical two-space-lifts (908 spaces total), and 90 parking stalls within the drive aisles of levels two and three.

### **3.3.5            Green Building Measures**

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

### **3.3.6            Construction**

It is anticipated that the project would be constructed over an approximate 39-month period. The site would be excavated to a depth of approximately 39 feet for the three-story below-grade parking garage. It is estimated that construction of the project would require an export of approximately 150,000 cubic yards of soil.

## **2.5                PROJECT OBJECTIVES**

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. The stated objectives of the project proponent are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2000 of locating high density development on infill sites along transit corridors. Key to meeting these goals is bringing residents to the downtown area to foster transit use and the efficiency of urban services and strengthen downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.
2. Replace an ageing and outdated conference center with a mixed use project that is designed as a high density [approximately 6.7 floor area ratio (FAR)], high-rise, vertical mixed-use project which provides the highest and best use of the parcel.
3. Provide creative office and retail space that supports employment; thereby increasing the job base within the downtown.
4. Provide a 4-star hotel that also supports employment and thereby increases employment within the downtown.
5. Expand the existing Tech Museum by providing additional exhibition and retail space within the new mixed-use building.
6. Maximize use of an infill site by providing retail, office, hotel, and residences in an area served by various modes of public transportation such as, VTA light rail and buses and planned BART extension to downtown; thereby creating opportunities to reduce vehicle miles travelled.

7. Provide a project with optimal public valet parking spaces to service the office, retail, exhibition (The Tech Museum) and residences for ease and efficiency.

## **2.6 CITY OF SAN JOSÉ OBJECTIVES**

The stated objectives within the Envision San José 2040 General Plan and Downtown Strategy 2000 are to:

1. Make the greater downtown a memorable urban place to live, work, shop and play.
2. Promote the identity of downtown San José as the capital of Silicon Valley.
3. Create a walkable, pedestrian-friendly greater downtown.
4. Promote and prioritize development that serves the needs of the entire City and valley.

In addition, the City also identified the following goals and strategies for the Envision San José 2040 General Plan which apply to the proposed project.

1. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.
2. Major Strategy #9 - Destination Downtown: Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/ placemaking goals.
3. Community Design Goal CD-6 – Downtown Urban Design: Promote and achieve the Downtown's full potential as a regional destination and diverse cultural, recreational, civic, and employment center through distinctive and high-quality design.
4. Land Use Goal LU-3 – Downtown: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.

## **2.7 USES OF THE EIR**

This SEIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project.

The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this SEIR:

1. Site Development Permit
2. Tentative Map
3. Demolition, Grading, Building, and Occupancy Permits
4. Disposition and Development Agreement

## SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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### 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.

### IMPACTS

This subsection: 1) includes thresholds of significance for determining impacts, 2) discusses the project's consistency with those thresholds, and 3) discusses the project's consistency with applicable plans. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** would denote the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** would refer to the third mitigation measure for the second impact in the Noise section.

The project's consistency with applicable plans (such as general plans, specific plans, and regional plans) is also discussed within this subsection pursuant to CEQA Guidelines Section 15125(d).

### CONCLUSION

This subsection provides a summary of the project's impacts on the resource.

#### **Important Note to the Reader**

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

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

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss issues that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose

a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.



### **3.1 LAND USE AND PLANNING**

#### **3.1.1 Environmental Setting**

##### **3.1.1.1 *Regulatory Framework***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3.1.1.2        *Existing Conditions***

#### **Existing Land Uses on the Project Site**

The 2.35-acre project site is comprised of a single parcel (APN 259-42-023) located on Park Avenue between South Market Street and South Almaden Boulevard in downtown San José. The site has one street frontage, Park Avenue, to the north. The site is currently developed with a one-story public exhibit building. The project site does not have any designated parking on-site. There is a driveway adjacent to the western boundary of the project site with removable bollards which provides access to the pedestrian mall adjacent to the exhibit building. The driveway does not provide public automobile access through the site. A second driveway is located near the eastern boundary of the site that provides access to a loading area.

Figure 2.1-3 shows an aerial of the project site and surrounding land uses.

#### **Surrounding Land Uses**

Development in the project area is primarily a mix of commercial, hotel, office, and public land uses. There are residences in the vicinity as well, but all are more than 1,000 feet from the project site. Building heights vary by land use from one- to 16-stories. The project site is bounded on the north by Park Avenue, a four-lane multi-directional roadway with a raised center median and a designed mid-block pedestrian crossing. North of Park Avenue are office buildings, restaurants, and an entrance to the Cityview Plaza parking garage.

The project site is bounded to the east by The Tech Museum and South Market Street, a six-lane multi-directional roadway. Plaza de César Chávez is located immediately east of South Market Street. The City National Civic, a two-story building, and McCabe Hall are both located to the south of the project site. Both of these buildings are used as assembly spaces hosting concerts and special

exhibits. South of the City National Civic and McCabe Hall is West San Carlos Street, a four-lane multi-directional roadway with light rail tracks in the median strip. The San José Convention Center is located on the south side of West San Carlos Street.

West of the project site are a pedestrian corridor, nine-story hotel, a two-story parking structure, a small surface lot, and a two-story building which is currently unoccupied.

### **Existing Land Use Designation and Zoning**

The project site is designated Public/Quasi-Public under the City of San José's adopted General Plan and zoned DC – Downtown Commercial. The Public/Quasi-Public designation is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. Joint development projects such as an integrated convention center/hotel/restaurant complex are allowed.

The Downtown Commercial zoning district allows office, hotel, retail uses, and multi-family residential as a permitted use provided the General Plan designation allows residential development. Based on the Downtown Commercial zoning, development shall only be subject to height limitations necessary for the safe operation of Mineta San José International Airport. There are no minimum setbacks requirements.

Zoning Code Section 20.70.110 states that new structures exceeding 150 feet and an FAR of 6:1 which are constructed within 100 feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmark commission prior to consideration of approval of a development permit for new construction. The comments of the historic landmarks commission shall be included in any development permit staff report subsequently presented to the executive director of the redevelopment agency, director of planning, planning commission or city council.

### **3.1.2 Land Use and Planning Impacts**

#### **3.1.2.1 *Thresholds of Significance***

For the purposes of this EIR, a land use and planning impact is considered significant if the project would:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or
- Conflict with any applicable habitat conservation plan or natural community conservation plan.
- 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 César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park); or

- Substantially shadow other public open space (beyond the six major open space areas) but excluding streets and sidewalks or private open space between September and March.

Similar to the site development evaluated in the Downtown Strategy 2000 EIR and the Envision San José 2040 General Plan EIR, the proposed project would result in the same significant land use impacts, with the exception of shading of Plaza de César Chávez, a major open space area in downtown San José, as described below.

### **3.1.2.2 Consistency with Plans**

#### **Consistency with General Plan Policies**

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

Consistency: The proposed project would be required to comply with the City's applicable Design Guidelines as discussed in Section 4.1 of Appendix A. Therefore, the proposed project is consistent with Policy CD-1.1.

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

Consistency: As proposed, the project would include ground floor retail and the building lobby along the street frontage and pedestrian mall. In addition, new trees would be planted throughout the site, primarily along the street frontage and within the pedestrian mall. Therefore, the proposed project is consistent with Policy CD-1.8.

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

Consistency: As proposed, the project would include ground floor retail and the building lobby along the street frontage and pedestrian mall. In addition, new trees would be planted throughout the site, primarily along the street frontage and within the pedestrian mall. No franchise architecture is proposed. Therefore, the proposed project is consistent with Policy CD-1.12.

*Policy CD-1.23:* Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public

street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Consistency: The proposed project would replace all trees removed during construction consistent with City standards. The new trees would be planted primarily along the street frontage and within the pedestrian mall. Therefore, the proposed project is consistent with Policy CD-1.23.

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

Consistency: The proposed building would be compatible in height, massing, and scale to other recently approved and/or constructed high-rise mixed-use buildings in the area including 360 Residences, One South Market, Gateway Towers, and Post and San Pedro, as well as existing hotels including the Marriot and the Fairmont. Therefore, the project is consistent with Policy CD-4.9.

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

Consistency: The proposed project would comply with the Federal Aviation Administration (FAA) regulations for maximum building heights as discussed in Appendix A, Section 4.8. Therefore, the project is consistent with Policy CD-5.8.

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

Consistency: The proposed project includes ground-floor retail to support pedestrian movement along the street frontage and the pedestrian mall. The proposed project would be required to comply with the applicable City's Design Guidelines as discussed in Section 4.1 of Appendix A. Therefore, the proposed project is consistent with Policy CD-6.2.

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

Consistency: The Design Guidelines highlight the opportunities that are possible to create strategies and form, especially those unique to San José, for buildings and their interface. The Downtown Design Guidelines define the design objectives for the elements that determine the image of downtown in the areas of site, architecture, and streetwall.<sup>1</sup> The proposed project would be required to comply with the City's applicable Design Guidelines as discussed in Section 4.1 of Appendix A. Therefore, the proposed project is consistent with Policy CD-6.10.

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<sup>1</sup> A streetwall is one of the long side boundaries of a street, formed by buildings, hedges, etc.

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

Consistency: As proposed, the project would include up to 14,012 square feet of ground floor retail within the downtown core and put new housing in proximity to existing retail and services. Therefore, the project is consistent with Policy LU-3.4.

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

Consistency: As proposed, the project would be consistent with the City's parking standards for automobiles and bicycles and would place housing, retail, jobs, and a hotel within the downtown core, in proximity to jobs, services, and multiple modes of transit. Therefore, the project is consistent with Policy LU-3.5.

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

Consistency: The proposed project would be required to get an FAA Determination of No Hazard as part of the project approval process. Therefore, the project is consistent with Policy TR-14.2.

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

Consistency: The proposed project complies with policies of the ALUC comprehensive land use plan for Mineta San José International Airport as discussed in below and in Section 4.8 of Appendix A. Therefore, the project is consistent with Policy TR-14.3.

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

Consistency: As with all high-rise structures in the downtown area, the project would be required as a condition of approval to dedicate an aviation easement over the project site. Therefore, the project is consistent with Policy TR-14.4.

## Consistency With General Plan and Zoning Land Use Designations

The project site is designated Public/Quasi-Public in the Envision San José 2040 General Plan. As stated above, the intent of this designation is to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. The project site is zoned DC – Downtown Commercial which allows office, hotel, retail uses, and multi-family residential as a permitted use provided the General Plan designation allows for residential development.

The proposed project is compatible with the Public/Quasi-Public land use designation because the project would have joint public and private participation. Specifically, the project would provide for economic development (i.e., more jobs in the downtown area from the proposed office, retail, and hotel) and more residents in the downtown to enhance the “complete community” of the downtown area. The development of these land uses would make it possible for the project applicant to provide financial backing for the proposed 60,475 square foot expansion of the Tech Museum. Therefore, while the Public/Quasi-Public land use designation does not explicitly permit residential development, City staff has determined that the multiple uses associated with the proposed project combined with the economic and community benefits of the project are in conformance with the Envision San José 2040 General Plan.

The project would be consistent with the General Plan and DC zoning designation for the project site.  
**[Same Impact as Approved Project (Less Than Significant Impact)]**

### 3.1.2.3 *Land Use Compatibility*

#### *Established Communities*

The proposed project would demolish the existing stand-alone building and construct a 267-foot high-rise, mixed-use building. The building would include an approximately 58,600 square foot expansion of the Tech Museum of Innovation, 209,804 square feet of office space, 306 residential units, and 184 hotel rooms. The Downtown Strategy 2000 EIR contains land use guidelines that seek to ensure that the mixed-use approach to the greater downtown would beneficially influence development, promote an active and lively streetscape, and reduce potential land use conflicts. The Downtown Strategy 2000 EIR notes that no new land uses are proposed for the greater downtown area that would conflict with established or proposed uses. The new development would complement the existing uses and, as a result, the project would not physically divide an established community. **[Same Impact as Approved Project (No Impact)]**

#### *Shade and Shadow*

The proposed development includes a 24-story tower with a maximum height of 267 feet. Properties located in the DC zoning district are not subject to a minimum setback requirement. For properties covered under the Downtown Strategy 2000, a significant shade and shadow impact is defined as:

- 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 César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park); or
- Substantially shadow other public open space (beyond the six major open space areas) but excluding streets and sidewalks or private open space between September and March.

The Downtown Strategy 2000 EIR concluded that development under the Downtown Plan would result in significant shading on Plaza de César Chávez in the winter months.

Under existing conditions, portions of Plaza de César Chávez are shaded by existing buildings in the area (see Figure 4.10-1). As shown on Figure 4.10-2, the maximum shading from the proposed project would also occur in the winter months. The winter morning and noon shadows do not shade any public open space. The winter afternoon shadows would shade more than 10 percent of Plaza de César Chávez.

The Downtown Strategy 2000 EIR identified mitigation (see Mitigation Measure SHADE-3a) to address new development southwest of the park. The mitigation requires a shade and shadow analysis to demonstrate that the proposed development would not result in a 10 percent or greater increase in shading on the park. In addition to the shade and shadow analysis, the Downtown Strategy 2000 EIR identified Strategies and Actions by Systems that relate to urban design and shade and shadow impacts as follows:

- Strategies and Actions by System, Public Realm 1 – Encourage compatible development around parks, including Plaza de César Chávez, St. James Park, and the green space along Guadalupe River Park and Gardens. Ensure that building designs orient toward open spaces. Allow and encourage higher densities at park edges to accentuate the space, increase the number of users, and maximize the return on public investment in amenities.
- Strategies and Actions by System, Public Realm 6 – In the design and placement of buildings, consider their impact on sun, shade, and wind in public spaces, especially the Circle of Palms, Repertory Plaza, St. James Park, Plaza de César Chávez and Paseo de San Antonio.
- Strategies and Actions by System, Urban Form and Buildings 4 – Structures should be oriented such that urban open spaces, such as Plaza de César Chávez, Circle of Palms, Repertory Plaza, and St. James Park receive adequate direct sun and filtered daylight and are protected from building glare, excessive shade, and wind.

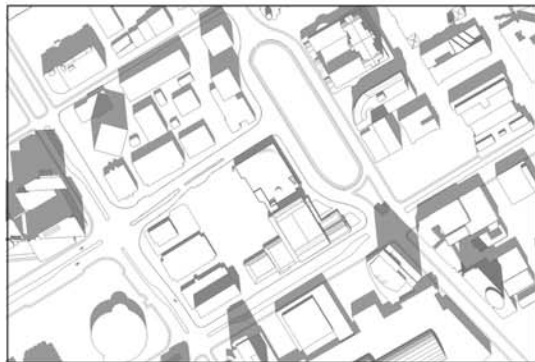
With the identified mitigation measure and Strategies and Actions, the Downtown Strategy 2000 EIR concluded that increased shading on Plaza de César Chávez Park would be less than significant.

**Impact LU-1:** Shadows cast by the proposed building would have a significant impact on Plaza de César Chávez. **(New Significant Impact)**





3pm

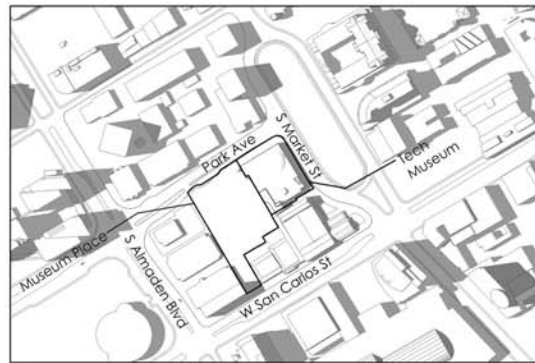


12noon



Mar./ Sept. 21st

9am



3pm

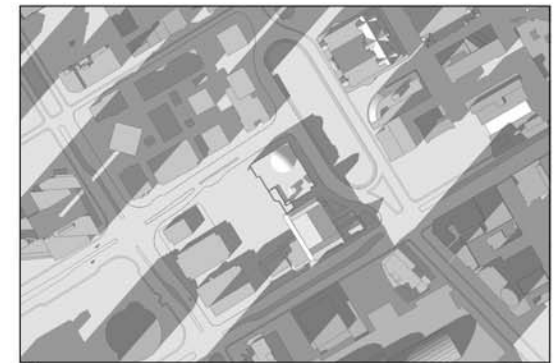


12noon

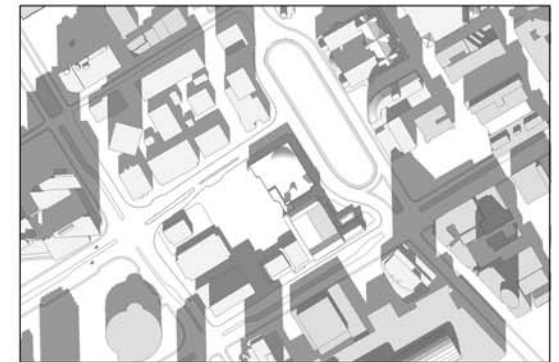


June. 21st

9am



3pm



12noon



Dec. 21st

9am

Source: Steinberg., 5/2/2016.

SHADE AND SHADOW - EXISTING CONDITIONS

FIGURE 3.1-1



3pm



12noon



Mar./ Sept. 21st 9am



3pm



12noon



June. 21st 9am



3pm



12noon



Dec. 21st 9am

Source: Steinberg., 5/2/2016.

SHADE AND SHADOW - PROPOSED CONDITIONS

FIGURE 3.1-2

## Compatibility with Airport Operations

Much of the greater downtown San José area, including the project site, is subject to several federal and local regulations and policies due to proximity to Mineta San José International Airport and its aircraft flight paths. See Section 4.8 in Appendix A (Hazards and Hazardous Materials) regarding required project compliance with FAA, Envision San José 2040 General Plan, and ALUC Comprehensive Land Use.

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

Pursuant to City and ALUC policy, the applicant would be required to grant an Aviation Easement over the project site as a condition of project approval. The recorded easement would provide for acceptance of aircraft noise and other effects of aircraft flyovers as well as elevation restrictions that allow for the currently proposed maximum building height of 267 feet above ground. Also, the project’s proposed maximum height would not impact any aircraft emergency one-engine inoperative (OEI) procedure currently used by airlines at the Airport.

By requiring the proposed project to comply with General Plan policies and FAA development restrictions, the proposed project would have a less than significant impact on airport operations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

## Other Land Use Impacts

The project would be constructed on a developed, urban site and would not divide an established community. The project would not conflict with any habitat conservation plan or natural community conservation plan (see Section 3.4 of Appendix A, Biological Resources). **[Same Impact as Approved Project (No Impact)]**

### **3.1.3 Mitigation and Avoidance Measures**

There are no feasible mitigations that would allow the building to be constructed as proposed (i.e., orientation, height, and massing) and still avoid the significant shade and shadow impact on Plaza de César Chávez.

Strategies and Actions by Systems identified in the Downtown Strategy 2000 require that the project’s impacts of sun, shade, and wind in public spaces, such as Plaza de César Chávez, be considered because it affects public enjoyment of those spaces. Plaza de César Chávez is most used by the public during the City’s annual Christmas in the Park event which is held in December. This is the period when shadow cast by the proposed project would be the longest and would shade the park. More than half of the park (approximately 85,000 square feet of roughly 100,100 square feet) would be in shade during the late afternoon hours lowering the temperature and making the space cooler. Approximately three months of shade would also affect the growth of the vegetation in the

shaded area, making it a less pleasant area for the public. Thus, the shade cast by the project building during the winter months would lessen the public enjoyment of the park.

Development of an improvement plan for the shaded area that would (1) provide an enhanced lighting system and (2) replace affected vegetated areas with less sensitive and more permanent material, would improve the public enjoyment of the park, by brightening and providing warmth to the shaded areas, and providing a surface that would make the shaded areas of the park more inviting. Although this plan would not avoid the impact, it would lessen the impact on the public's enjoyment of the space.

The following mitigation measure would provide for development and implementation of an improvement plan for Plaza de César Chávez during the winter months:

**MM LU-1.1:** The project applicant shall contribute \$100,000 to the Parks and Community Facilities Development Capital Improvement Program (Program) to develop and implement an Improvement Plan to:

1. Provide an enhanced lighting system for the shaded area of the park; and
2. Replace vegetated areas affected by the shade with less sensitive and more permanent material. This fee shall be a one-time amount and shall be paid prior to issuance of any building permit.

The project applicant shall also submit the Improvement Plan to the City's Director of the Department of Parks, Recreation and Neighborhood Services for review and approval. The Improvement Plan shall include, but is not limited to, the following:

- Design and construction drawings
- Lighting study
- Lighting fixtures
- Energy consumption
- Replacement of turf and sod

Implementation of Mitigation Measure LU-1.1 will lessen the effect of the shade and shadow, but the impact would remain significant. Therefore, the impact would be significant and unavoidable.

### **3.1.4 Conclusion**

Implementation of the proposed project would result in a new significant and unavoidable shade and shadow impact on Plaza de César Chávez. **(New Significant Unavoidable Impact)**

For all other land use issues, implementation of the proposed project will result in the same less than significant land use impacts previously identified in the Downtown Strategy 2000 EIR and the Envision San José 2040 General Plan EIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**



## **3.2 ENERGY**

This section was prepared pursuant to CEQA Guidelines Section 15126.4 (a)(1)(C) and Appendix F which requires that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. The information in this section is based largely on data and reports produced by the California Energy Commission, the Bay Area Air Quality Management District (BAAQMD), and the Energy Information Administration of the U.S. Department of Energy.

### **3.2.1 Environmental Setting**

#### **3.2.1.1 *Regulatory Framework***

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. EPA apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

### **State of California**

#### **Renewable Energy Standards**

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 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and required that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In 2015, Pacific Gas and Electric (PG&E), the electricity provider to the project site, had an electricity mix that was 30 percent renewable.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the state's electricity from renewable sources by 2030.

#### **Building Codes**

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years; the 2013 standards became effective July 1, 2014. The 2016 Title 24 updates have

gone into effect as of January 1, 2017.<sup>2</sup> Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.<sup>3</sup>

In January 2010, the State of California adopted the California Green Building Standards Code (CALGreen) that establishes mandatory green building standards for all buildings in California. In 2013, the code was subsequently updated. The code covers five categories: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and indoor environmental quality.

### City of San José

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)<sup>4</sup>, GreenPoint<sup>5</sup>, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in the table below.

<b>Table 3.2-1: Private Sector Green Building Policy Applicable Projects</b>	
<b>Applicable Project</b>	<b>Minimum Green Building Rating</b>
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified
Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. <a href="http://www3.sanJoseca.gov/clerk/cp_manual/CPM_6_32.pdf">http://www3.sanJoseca.gov/clerk/cp_manual/CPM_6_32.pdf</a> . Accessed January 13, 2017.	

#### 3.2.1.2 Background Information

Energy consumption is analyzed in an EIR because of the environmental impacts associated with its production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases of energy use.

<sup>2</sup> California Building Standards Commission. California Building Standards Code (California Code of Regulations, Title 24). Accessed January 13, 2017. <http://www.bsc.ca.gov/Codes.aspx>.

<sup>3</sup> CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed January 13, 2017. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>.

<sup>4</sup> Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

<sup>5</sup> Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

Energy usage is typically quantified using the British thermal unit (Btu).<sup>6</sup> As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively. Utility providers measure gas usage in therms. One therm is approximately equal to 100,000 Btus.

Electrical energy is expressed in units of kilowatts (kW) and kilowatt-hours (kWh). One kilowatt, a measurement of power (energy used over time), equals one thousand joules<sup>7</sup> per second. A kilowatt-hour is a measurement of energy. If run for one hour, a 1,000 watt (one kW) hair dryer would use one kilowatt-hour of electrical energy. Other measurements of electrical energy include the megawatt (1,000 kW) and the gigawatt (1,000,000 kW).

Total energy usage in California was approximately 7,573 trillion Btus in the year 2014 (the most recent year for which this specific data was available).<sup>8</sup> The breakdown by sector was approximately 18 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 39 percent for transportation.<sup>9</sup>

Energy use associated with operation of the existing development on the project site primarily consists of fuel for vehicle trips to and from the site, electricity for lighting and cooling, and natural gas for operations within the facility. Given the nature of land uses proposed as part of the project, the remainder of this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

## **Electricity**

The electricity supply in California involves a complex grid of power plants and transmission lines. In 2014, California produced approximately 75 percent of the electricity it consumed; it imported the remaining 25 percent from 11 western states, Canada, and Mexico. Recent drought-related decreases in hydroelectric generation resulting from lower precipitation in California and the northwest was made up for by an increase in renewable energy generation, specifically utility-scale solar photovoltaic, solar thermal, and wind generation.

The bulk of California's electricity comes from power plants. In 2015, 44 percent of the state's electricity was generated by natural gas, nine percent by nuclear, five percent by large hydroelectric, and six percent by coal. Renewable sources such as rooftop photovoltaic systems, biomass power plants, and wind turbines, accounted for 22 percent of California's electricity. Fourteen percent of California's power comes from unspecified sources.<sup>10</sup>

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<sup>6</sup> A Btu is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.

<sup>7</sup> As defined by the International Bureau of Weights and Measures, the joule is a unit of energy or work. One joule equals the work done when one unit of force (a Newton) moves through a distance of one meter in the direction of the force.

<sup>8</sup> U.S. EIA. California Energy Consumption Estimates 2014. Accessed January 13, 2017.

<http://www.eia.gov/state/?sid=CA#tabs-2>.

<sup>9</sup> U.S. EIA. California Energy Consumption by End-Use Sector, 2014. Accessed January 13, 2017.

[http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep\\_sum/html/sum\\_btu\\_1.html&sid=CA](http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_btu_1.html&sid=CA).

<sup>10</sup> CEC, Energy Almanac, Total Electricity System Power. Accessed January 13, 2017. Available at:

[http://www.energy.ca.gov/almanac/electricity\\_data/total\\_system\\_power.html](http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html).

In 2015, total electrical system power for California was 295,405 gigawatt-hours (GWh), about 0.5 percent lower than 2014's total electrical system power of 297,062 GWh. In 2015, California's in-state electricity production (196,195 GWh) was down by approximately 1.5 percent compared to 2014's in-state electricity production of 199,193 GWh. It is estimated that future demand in California for electricity will grow at approximately one percent each year through 2025, and that 320,862 GWh of electricity would be utilized in the state in 2025.<sup>11</sup>

PG&E is San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2015, natural gas facilities provided 25 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 23 percent; hydroelectric operations provided six percent; renewable energy facilities including solar, geothermal, and biomass provided 30 percent; and 17 percent was unspecified.<sup>12</sup>

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. In 2014, electricity in Santa Clara County was consumed primarily by the commercial sector (77 percent); the residential sector consumed 23 percent. In 2015, a total of approximately 16,812 GWh of electricity were consumed in Santa Clara County.<sup>13</sup>

## Natural Gas

Approximately 10 percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.<sup>14</sup> In 2015, approximately 36 percent of the natural gas delivered for consumption in California was for electricity generation, 35 percent for industrial uses, 18 percent for residential uses, 10 percent for commercial uses, and less than one percent for transportation.<sup>15</sup> As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2015, the State of California consumed approximately 2.3 million cubic feet of natural gas.<sup>16</sup>

Overall demand for direct-service natural gas in the commercial residential sectors of California is expected to flatten or decrease as a result of overall energy efficiency. Demand for natural gas at power plants for electricity generation is also expected to decrease by one percent by 2025 (as compared to 2013 demand rates). This decrease is a result of increases in renewable power generation.<sup>17</sup>

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<sup>11</sup> CEC. California Energy Demand Updated Forecast 2015-2015. Accessed January 13, 2017. <http://www.energy.ca.gov/2014publications/CEC-200-2014-009/CEC-200-2014-009-SD.pdf>.

<sup>12</sup> PG&E. Delivering Low-emission Energy. Accessed January 13, 2017. [https://www.pge.com/en\\_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page](https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page).

<sup>13</sup> CEC, Energy Consumption Data Management System. Electricity Consumption by County. January 13, 2017. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

<sup>14</sup> CEC. Natural Gas Supply by Region. 2011. Accessed January 13, 2017. Available at: [http://www.energyalmanac.ca.gov/naturalgas/natural\\_gas\\_supply.html](http://www.energyalmanac.ca.gov/naturalgas/natural_gas_supply.html).

<sup>15</sup> U.S. EIA. Natural Gas Consumption by End Use. Accessed January 13, 2017. [https://www.eia.gov/dnav/ng/ng\\_cons\\_sum\\_dcu\\_SCA\\_a.htm](https://www.eia.gov/dnav/ng/ng_cons_sum_dcu_SCA_a.htm).

<sup>16</sup> U.S. EIA. Natural Gas Summary. Accessed January 13, 2017. [http://www.eia.gov/dnav/ng/ng\\_sum\\_lsum\\_dcu\\_SCA\\_a.htm](http://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm).

<sup>17</sup> CEC. *2013 Natural Gas Issues, Trends, and Outlook*. Accessed January 13, 2017. <http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf>.



## Gasoline for Motor Vehicles

California accounts for more than one-tenth of the United States' crude oil production and petroleum refining capacity.<sup>18</sup> In 2015, over 18 billion gallons of gasoline, diesel, and jet fuel were consumed in California.<sup>19</sup> The United States has seen low prices and high demand in the last few years due to low oil prices and a recovering economy, and this trend is expected to continue in the near term.<sup>20</sup>

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970s to 23.2 mpg in 2014.<sup>21</sup> Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, applies to cars and light trucks of Model Years 2011 through 2020.<sup>22,23</sup> In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.<sup>24</sup>

### 3.2.1.3 Energy Use of Existing Development

The electricity and natural gas used by the existing building on-site is estimated in Table 3.3-2 based on energy demand factors used in the California Emissions Estimator Model (CalEEMod).

Table 3.2-2: Estimated Annual Energy Use of Existing Development			
Development	Energy Demand Factors	Electricity Use (kWh)	Natural Gas Use (kBtu)
~30,000 square foot stand-alone facility <sup>1</sup>	9.43 kWh/square foot 29.25 kBtu/square foot	282,900	877,500
Source: California Air Pollution Control Officers Association (CAPCOA). <i>CalEEMod User's Guide, Version 2013.2</i> . July 2013. Appendix D, Table 8.1. Climate Zone 4.			
Note: <sup>1</sup> CalEEMod does not have an "exhibit hall" land use, so "library" was used.			

As shown above, each year the existing building on-site uses approximately 282,900 kWh of electricity and 877,500 kBtu of natural gas.

<sup>18</sup> U.S. EIA. California State Energy Profile. Accessed January 13, 2017.

<http://www.eia.gov/beta/state/analysis.cfm?sid=CA>.

<sup>19</sup> California State Board of Equalization. Taxable Gasoline, Diesel Fuel, Jet Fuel Ten Year Reports. Accessed January 13, 2017. <http://www.boe.ca.gov/sptaxprog/spftrpts.htm>.

<sup>20</sup> U.S. EIA. Short-Term Energy and Fuels Outlook. Accessed January 13, 2017.

[http://www.eia.gov/forecasts/steo/report/us\\_oil.cfm](http://www.eia.gov/forecasts/steo/report/us_oil.cfm).

<sup>21</sup> U.S. EPA. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed January 13, 2017.

[http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national\\_transportation\\_statistics/html/table\\_04\\_2\\_3.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_04_2_3.html).

<sup>22</sup> U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed January 13, 2017.

Available at: <http://www.afdc.energy.gov/laws/eisa>

<sup>23</sup> Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Page 1449. Accessed January 13, 2017. <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>

<sup>24</sup> National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. Accessed January 13, 2017. <https://www.nhtsa.gov/press-releases/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standards>.

### 3.2.2 Energy Impacts

#### 3.2.2.1 *Thresholds of Significance*

Based on Appendix F of the CEQA Guidelines, and for the purposes of this EIR, a project would result in a significant energy impact if it would:

- Use fuel or energy in a wasteful manner; or
- Result in a substantial increase in demand upon energy resources in relation to projected supplies; or
- Result in longer overall distances between jobs and housing.

#### 3.2.2.2 *Estimated Energy Use of the Proposed Project*

The project proposes to demolish the existing building on-site and construct a 267-foot high-rise, mixed-use building. The building would include an approximately 58,600 square foot expansion of the Tech Museum of Innovation, 209,804 square feet of office space, 306 residential units, and 184 hotel rooms. The project proposes a three-story, below-grade parking garage with a total of 1,000 parking stalls. Energy would be consumed during both the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition, excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Operation of the proposed building would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Table 3.3-3 summarizes the estimated energy use of the proposed project.

<b>Table 3.2-3: Estimated Annual Energy Use of Proposed Project</b>			
<b>Development</b>	<b>Energy Demand Factors</b>	<b>Electricity Use (kWh)</b>	<b>Natural Gas Use (kBtu)</b>
Condo/Townhouse High-Rise (306 units)	4,311.20 kWh/dwelling unit 19,474.61 kBtu/dwelling unit	1,319,227	5,959,231
Hotel (90,375 square feet)	8.44 kWh/square foot 46.38 kBtu/square foot	762,765	4,191,593
General Office Building (209,804 square feet)	19.71 kWh/square foot 17.22 kBtu/square foot	4,135,237	3,612,825
Library <sup>1</sup> (58,600 square feet)	9.03 kWh/square foot 27.41 kBtu/square foot	529,158	1,606,226
Enclosed Parking with Elevator (165,543 square feet)	6.74 kWh/square foot 0 kBtu/square foot	1,115,760	0
<b>Total:</b>		7,862,147	15,369,875
Source: California Air Pollution Control Officers Association (CAPCOA). <i>CalEEMod User's Guide, Version 2013.2</i> . July 2013. Appendix D, Table 8.1. Climate Zone 4. Notes: <sup>1</sup> CalEEMod does not have a "museum" land use, so "library" was used.			

The proposed project would result in a net increase of approximately 5,285 total daily traffic trips.<sup>25</sup> The total annual VMT for the project is approximately 15,115,100 miles, assuming that the average trip length in Santa Clara County is 11 miles.<sup>26</sup> Using U.S. EPA's estimated average fuel economy of 23.2 miles per gallon (mpg), the project would result in the consumption of approximately 914,624 gallons of gasoline per year.<sup>27</sup>

Table 3.3-4 below compares the energy use that would result from the proposed project with the energy use of the existing development.

<b>Table 3.2-4: Annual Energy Demand Summary</b>			
<b>Development</b>	<b>Electricity Use (kWh)</b>	<b>Natural Gas Use (kBtu)</b>	<b>Gasoline (gallons)</b>
Existing Development	282,900	877,500	261,271 <sup>1,2</sup>
Proposed Development	7,862,147	15,369,875	914,624
<b>Increase:</b>	<b>7,579,247</b>	<b>14,492,375</b>	<b>653,353</b>
Source: California Air Pollution Control Officers Association (CAPCOA). <i>CalEEMod User's Guide, Version 2013.2</i> . July 2013. Appendix D, Table 8.1. Climate Zone 4. Notes: <sup>1</sup> CalEEMod does not have a "museum" land use, so "library" was used. <sup>2</sup> 551,044 total trips (11 miles) = 6,061,484 VMT/23.2 mpg = 261,271 gallons of gasoline To calculate the gallons of gasoline, the total vehicle trips was calculated using weekday and weekend average rate trip generation per 1,000 square feet for "Library (590)" from the Institute of Transportation Engineers <i>Trip Generation Manual</i> 9 <sup>th</sup> Edition Volume 3.			

### 3.2.2.3 *Operational Impacts from the Proposed Project*

The existing facility would use approximately 1,766,372 kBtu annually<sup>28</sup>. The proposed project would use approximately 40,072,741 kBtu per year<sup>29</sup>, a net increase in energy usage of 38,306,369 kBtu per year.

The energy use increase is likely overstated, however, because the estimates for energy use do not take into account the efficiency measures incorporated into the project. In addition, the project would be built to the 2016 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the two-year construction term), thereby improving the efficiency of the overall project.

As mentioned previously, the annual 295,405 GWh electricity use in California was projected to increase by approximately one percent each year through 2025. The proposed project would increase

<sup>25</sup> Hexagon Transportation Consultants, Inc. *Museum Place Mixed-Use Development Traffic Operations Analysis*. August 1, 2016.

<sup>26</sup> Association of Bay Area Governments. *Plan Bay Area*. Table 2.1-5. Accessed January 16, 2017. [http://planbayarea.org/pdf/Draft\\_EIR\\_Chapters/2.1\\_Transportation.pdf](http://planbayarea.org/pdf/Draft_EIR_Chapters/2.1_Transportation.pdf).

<sup>27</sup> 5,285 daily trips (365 days) = 1,929,025 yearly trips (11 miles) = 21,219,275 VMT/23.2 mpg = 914,624 gallons of gasoline annually.

<sup>28</sup> 282,900 kWh (3.142 kBtu) = 888,872 kBtu + 877,500 kBtu = 1,766,372 kBtu

<sup>29</sup> 7,862,147 kWh (3.142 kBtu) = 24,702,866 kBtu + 15,369,875 kBtu = 40,072,741 kBtu

annual electricity use by approximately 7,579,247 kWh, or 7.6 GWh. The project would not result in a substantial increase in demand on electrical energy resources in relation to project supply.

In 2015, California used approximately 2.3 million cubic feet of natural gas. It is assumed that energy efficiency technology and the RPS targets are likely to reduce demand for natural gas in the state in the future. Additionally, system and drilling efficiencies will continue to enhance production and decrease the overall need for natural gas.<sup>30</sup> Based on the relatively small increase in natural gas demand from the project (14,492,375 kBtu per year) compared to growth trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to project supplies.

The proposed project would increase gasoline demand by 653,353 gallons. New automobiles purchased by future occupants of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. In addition, the project is in close proximity to major transit services located along the surrounding roadways and within walking distance of Diridon Station. The Convention Center light rail transit (LRT) station is located less than a quarter mile south of the project site on San Carlos Street and is directly accessible via the Almaden Paseo located along the projects western boundary (refer to Section 4.16, Transportation, in Appendix A). As a result, implementation of the proposed project would not result in a substantial increase on transportation-related energy use. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### **3.2.2.4      *Energy Efficiency***

##### **Construction**

The anticipated construction schedule assumes that the project would be built out over a period of approximately 39 months. The project would require demolition, grading, excavation, and site preparation for construction of the proposed building. Based on data provided by the project applicant, the proposed project would require up to 150,000 cubic yards of soil export.

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. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed in Section 4.3, Air Quality of Appendix A 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 at least 30 percent of construction waste as part of its LEED certification (discussed further below).

There would be unavoidable adverse effects caused by construction because the use of fuels and building materials are fundamental to construction of new buildings. With implementation of the air

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<sup>30</sup> CEC. 2013 *Natural Gas Issues, Trends, and Outlook*. Accessed January 13, 2017.  
<http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf>.

quality-related BMPs, the energy impacts of construction and unavoidable effects of development would be less than significant.

### **Operation**

The proposed project would be required to build to the state's CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Though the proposed project does not include on-site renewable energy resources, the proposed mixed-use building would also be built to achieve LEED certification consistent with San José Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by conforming to the City's Green Building Measures. Specific measures proposed by the project include:

- Low-flow water fixtures
- Geothermal ground source heat pumps
- Electric vehicle charging stations

The proposed project is required to provide a total of 142 bicycle parking spaces, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing state energy standards. 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)]**

#### **3.2.2.5 *Distance Between Jobs and Housing***

The project is a mixed-use development and would create jobs and place housing in a city that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. The project is an infill development and would create jobs and place housing in a city where services, retail, and transit are in the immediate vicinity. High-density infill development would result in fewer environmental impacts and efficient use of land and resources by concentrating development in urban areas near existing roads, transit, and infrastructure. As a result, the proposed project would not substantially increase the distance between jobs and housing nor substantially exacerbate the jobs/housing imbalance. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### **3.2.3 Mitigation and Avoidance Measures**

Because the project would incorporate the energy saving measures required for conformance with CALGreen and the City's Green Building Policy as outlined above, no mitigation is required or proposed.

#### **3.2.4 Conclusion**

The project proposes a mixed-use development consisting of residential, office, hotel, and retail development, which would place new residences and jobs at an infill site in downtown San José. The project would not result in significant energy impacts associated with the distance between jobs and

housing and, due to the inclusion of the proposed green building design features, the project would not result in the wasteful use of fuel or energy. The project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. **[Same Impact as Approved Project (Less Than Significant Impact)]**



## **SECTION 4.0 CUMULATIVE IMPACTS**

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Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The discussion does not need to be in as great detail as is necessary for project impacts, but is to be “guided by the standards of practicality and reasonableness.” The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project’s contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all of the pending development listed result in a cumulatively significant impact on the resources in question? And, if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts?

### **4.1 CUMULATIVE PROJECT IMPACTS**

Based on the analysis in this EIR (including the Initial Study in Appendix A), the proposed project would result in a less than significant impacts to aesthetics, agricultural/forestry resources, air quality, cultural resources, biological resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, population and housing, public services, recreation, transportation, and utilities and service systems. The degree to which the proposed project would add to existing or probable future impacts on existing land uses and/or resources would be negligible. As a result, the project’s contribution to a cumulatively significant impact in any of these resource areas would not be considerable, or in those areas where it could be cumulatively considerable (e.g., traffic impacts, regional air quality impacts, long-term 2035 GHG impacts), has already been disclosed as part of the cumulative impacts analysis completed for the Downtown Strategy 2000 EIR and Envision San José 2040 General Plan EIR.

The proposed project would result in a significant shade and shadow impact on Plaza de César Chávez. While there would be a project-level impact, the Downtown Strategy 2000 EIR found that full build out of the Downtown Strategy 2000 would not have a cumulative shade and shadow impact because the totality of the impacts would be localized and not related to potential similar effects in other major projects. The analysis also found, however, that shade and shadow impacts resulting from the Downtown Strategy 2000 would be mitigated to less than significant with the identified mitigation measures.

Based on current development trends and the City's planned growth in the downtown area, it is reasonable to assume that any other future development near Plaza de César Chávez would be primarily high-rise structures. Because the project's shade and shadow impact cannot be mitigated to a less than significant level, the project would contribute to any future cumulative impact on Plaza de César Chávez resulting from additional high-rise development immediately west or south of the park.

With implementation of the proposed project, Plaza de César Chávez would have a permanent increase in shading during the afternoon hours in the winter months. This increase in shading would be cumulatively considerable when combined with any future development that may shade the park.

## **4.2 CONCLUSION**

Implementation of the proposed project would result in a cumulatively considerable shading impact on Plaza de César Chávez. There is no feasible mitigation to reduce this impact to a less than significant level.

## SECTION 5.0      GROWTH-INDUCING IMPACTS

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For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project is implementing a piece of a larger strategy plan for all of downtown and is consistent with planned downtown growth in the Downtown Strategy 2000 and the Envision San José 2040 General Plan. The growth inducing effects of that planned development were already analyzed in the EIRs for those area and Citywide plans.

The project is proposed on an infill site in the downtown core of the City of San José. The site is surrounded by existing infrastructure and both existing and planned development. Development of the project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

Development of the project site would place a new mixed-use residential/office/hotel/retail building in the middle of a mixed-use area with surrounding retail and commercial/office, and nearby residential development. The proposed project would be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses.

Development of this site consistent with the proposed project would result in a net increase in jobs and housing Citywide. There is currently a shortage of available jobs relative to available housing within the City of San José. This jobs/housing imbalance (analyzed in Section 4.13, Population and Housing, of Appendix A), is expected to reverse with full build out of the Envision San José 2040 General Plan. The increase in jobs and housing resulting from the project would have a small effect on the overall jobs/housing imbalance within the City.

The project would have a less than significant growth inducing impact.

## **SECTION 6.0      SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES**

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CEQA and the CEQA Guidelines require that an EIR address “significant irreversible environmental changes which would be involved in the proposed project, should it be implemented.” [Section 15126(c)]

If the proposed project is implemented, development of this site would involve the use of non-renewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Once the new development is complete, occupants would use some non-renewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water. Water consumption is currently low because the primary use of the building is as an exhibition hall.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed mixed-use project would be constructed to minimum LEED standards and would, as a result, use less energy for heat and light and less water than a standard design mixed-use building. In addition, the site is an infill location currently served by public transportation and within walking distance of jobs and services. The site also provides an expansion of job opportunities that are more reasonably proximate to existing housing and transportation networks in San José and neighboring cities than housing farther away in the south county and other counties to the north. The proposed project would, therefore, facilitate a more efficient use of resources over the lifetime of the project.

## **SECTION 7.0      SIGNIFICANT AND UNAVOIDABLE IMPACTS**

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A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following site- and project-specific significant unavoidable impact has been identified as resulting from the proposed project:

1. Implementation of the proposed project would result in a more than 10 percent increase shading on Plaza de César Chávez during the winter months.
2. With implementation of the proposed project, Plaza de César Chávez would have a permanent increase in shading during the afternoon hours in the winter months. This increase in shading would be cumulatively considerable when combined with any future development that may shade the park.

All other significant impacts of the proposed project associated with the specific project site would be reduced to a less than significant level with the implementation of mitigation measures identified in this SEIR. The project would also contribute to the significant and unavoidable impacts associated with full buildout of the Downtown Strategy 2000 that were previously disclosed in the Downtown Strategy 2000 EIR certified in 2005.

## SECTION 8.0      ALTERNATIVES

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Section 15126.6 of the CEQA Guidelines requires that an EIR describe a reasonable range of alternatives to the proposed project that could feasibly attain most of the project objectives while avoiding or considerably reducing any of the significant impacts of the proposed project. In addition, the No Project Alternative must be analyzed in the document.

In order to comply with the purposes of CEQA, it is necessary to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented while trying to meet most of the basic objectives of the project. The Guidelines emphasize a common sense approach. The alternatives shall be reasonable, shall “foster informed decision making and public participation,” and shall focus on alternatives that avoid or substantially lessen the significant impacts.

The stated objectives of the project proponent are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2000 of locating high density development on infill sites along transit corridors. Key to meeting these goals is bringing residents to the downtown area to foster transit use and the efficiency of urban services and strengthen downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.
2. Replace an ageing and outdated conference center with a mixed use project that is designed as a high density [approximately 6.7 floor area ratio (FAR)], high-rise, vertical mixed-use project which provides the highest and best use of the parcel.
3. Provide creative office and retail space that supports employment; thereby increase the job base within the downtown.
4. Provide a 4-star hotel that also supports employment and thereby increases employment within the downtown.
5. Expand the existing Tech Museum by providing additional exhibition and retail space within the new mixed-use building.
6. Maximize use of an infill site by providing retail, office, hotel, and residences in an area served by various modes of public transportation; thereby creating opportunities to reduce vehicle miles travelled.
7. Provide a project with optimal public valet parking spaces to service the office, retail, exhibition (The Tech Museum) and residences for ease and efficiency.

The stated objectives of the City of San José are to:

1. Make the greater downtown a memorable urban place to live, work, shop and play.
2. Promote the identity of downtown San José as the capital of Silicon Valley.
3. Create a walkable, pedestrian-friendly greater downtown.



4. Promote and prioritize development that serves the needs of the entire City and valley.

The City also identified the following goals and strategies for the Envision San José 2040 General Plan which apply to the proposed project.

1. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.
2. Major Strategy #9 - Destination Downtown: Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals.
3. Community Design Goal CD-6 – Downtown Urban Design: Promote and achieve the Downtown's full potential as a regional destination and diverse cultural, recreational, civic, and employment center through distinctive and high-quality design.
4. Land Use Goal LU-3 – Downtown: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.

An EIR is required to include a "No Project" alternative that "compares the impacts of approving the proposed project with the impacts of not approving the proposed project."<sup>31</sup>

The significant impacts identified in this EIR as resulting from the proposed project at the specific site include a significant shade and shadow impact on Plaza de César Chávez. The logical way to reduce this impact would be to reduce the size and/or height of the building. Therefore a design alternative is discussed below. Alternatives to reduce or avoid the significant and unavoidable impacts resulting from buildout of the Downtown Strategy 2000 as a whole were presented in the 2005 EIR, and are not repeated here as they are not relevant to the current decision-making for the proposed specific development project that is the subject of this SEIR.

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, Section 15126.6, subd. (a)) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar*, *supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

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<sup>31</sup> CEQA Guidelines Section 15126.6(e)(1)

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is “whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location”.<sup>32</sup> The proposed project is a mixed-use tower within the downtown core near transit, major roadways, and jobs and services. The impact identified is unique to the location of the project, immediately west of Plaza de César Chávez. Most other downtown locations, if there were properties available, would avoid this impact, however, those other properties are themselves development opportunity sites that together with the subject project are anticipated for development as part of the Downtown Strategy 2000, and so they are not truly alternative locations but rather other Downtown Strategy 2000 component sites. An alternative location would locate the subject project outside of the downtown, rather than simply move the proposed development to another downtown development opportunity site. Nevertheless, a key component of the project is the expansion of the Tech Museum. Any relocation alternative would preclude expansion of the Tech Museum, unless completed as a separate project. Furthermore, most of the available parcels in the downtown core are already under consideration for redevelopment as part of the Downtown Strategy 2000 and would not likely be large enough to support the density proposed by the project. For these reasons, an alternative location was not analyzed.

## **A. NO PROJECT ALTERNATIVE**

The CEQA Guidelines [Section 15126(d)4] require that an EIR specifically discuss a “No Project” alternative, which shall address both “the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services.”

### ***No Project – No Development Alternative***

The No Project – No Development Alternative would retain the exhibit building and continue the current operations. If the project site were to remain as is there would be no new impacts.

**Conclusion:** Implementation of the “No Project” No Development alternative would avoid the significant impacts identified in this EIR. The “No Project” No Development alternative would not, however, allow for new high density mixed-use development to be constructed on the project site consistent with the Envision San José 2040 General Plan and would not facilitate expansion of the Tech Museum, unless completed as a separate project. This alternative does not meet the objectives of the proposed project.

## **B. DESIGN ALTERNATIVE (REDUCED INTENSITY)**

The purpose of a development alternative is to feasibly attain the basic objectives of the project while avoiding or lessening the significant impacts of the project. The significant and unavoidable impact identified for the proposed project is shade and shadow on Plaza de César Chávez. This design alternative was developed to avoid the shade and shadow on Plaza de César Chávez.

Under this design alternative, the building would be reduced in height from 270 feet (24 stories) to 108 feet (nine stories). In addition, the overall building shape would be modified to be a solid

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<sup>32</sup> CEQA Guidelines Section 15126.6(f)(2)(A)

rectangle to accomplish as much of the development program as possible. The modification to the building height and design would result in a total building size of 621,000 square feet, a net reduction of 237,997 square feet compared to the proposed project. Table 8.0-1 below shows the design alternative square footage in comparison to the proposed project, in a scenario in which the lost building area occurs in the portion of the project devoted to residential use, and all other uses are held constant.

<b>Table 8.0-1: Comparison of Project and Design Alternative</b>		
<b>Use</b>	<b>Proposed Project</b>	<b>Design Alternative</b>
Residential	307 units 302,310 square feet	117 units 116,158 square feet
Office	209,395 square feet	209,395 square feet
Hotel	184 rooms	184 rooms
Retail (including Museum retail)	19,002 square feet	19,002 square feet
Museum Expansion	60,475 square feet	60,475 square feet

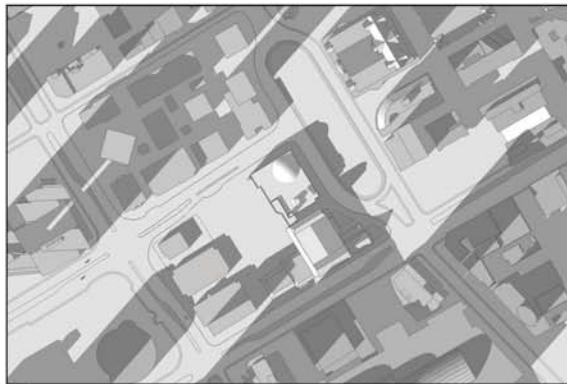
In order to avoid the shade and shadow the ideal height of the building that would not cast a shadow on the park is nine stories (approximately 108 feet). Ten stories would exceed the 10 percent or greater threshold for shade and shadow on Plaza de César Chávez. At 108 feet, the shadow cast onto Plaza de César Chávez by the proposed building in the winter afternoon hours would be comparable to the shadow currently cast by the Tech Museum. This would result in no net increase in shading over existing conditions and avoiding the significant shade and shadow impact as shown in Figure 8.0-1.

Using the square footages of the proposed project (Section 2.4 of the Project Description), the office, retail, hotel, and Tech Museum expansion components of the project total approximately 505,000 square feet of the building area, including common use areas. Given a total building size of 621,000 square feet, the remaining square footage available for residential uses would be 116,158.

The proposed project would have 306 residential units in 302,310 square feet, or approximately 988 square feet per unit. Assuming the same average unit size, the Design Alternative could include up to 117 residential units in 116,158 square feet. This would be a net reduction of 189 units compared to the proposed project. The proposed underground parking would be reduced accordingly to support the new parking requirements of the building. Building access would be the same as the proposed project.

Alternatively, the office or hotel component could be reduced to allow for more residential units, but because of the multiple land uses proposed, the total number of programming options is substantial and it is beyond the scope of this EIR to speculate on every possible development scenario. For purposes of reduction in shading on the park, any mix of uses (hotel, office, residential, retail) that is accomplished within ten stories would be possible under the Design Alternative.

The Downtown Strategy 2000 was developed to take advantage of infill parcels along transit corridors, to provide urban services, and to strengthen the downtown. Further, the Downtown Strategy 2000 goal is to make the downtown a regional jobs, entertainment, and cultural destination. The proposed project meets these objectives. The design alternative would not maximize this infill



N  
Dec. 21st

3pm

EXISTING



N  
Dec. 21st

3pm

270' TOWER  
24 LEVELS  
858997 sq.ft



N  
Dec. 21st

3pm

108' FULL BLOCK BUILDING  
9 LEVELS  
621000 sq.ft

Source: Steinberg., 1/18/2017.

parcel and the prime location, particularly its proximity to transit. The design alternative would not meet the Downtown Strategy 2000 goal of making the downtown a vibrant destination to the same extent as the project because there would be fewer residents who would be able to take advantage of the transit options, urban services, and local entertainment.

This design alternative would provide high density infill development adjacent to transit corridors within the downtown area. It would replace the existing conference center with a mixed use project with a 6.07 FAR. Given that the General Plan allows for a higher FAR and building height on the project site than what is proposed by this alternative, the alternative would not be considered the highest and best use of the site. The project would increase jobs in the downtown area by providing new office and retail space, and would expand the Tech Museum. The project would also include a new hotel near existing entertainment venues. As proposed, the design alternative would include retail, office, hotel, and residential land uses and provide valet parking to serve the building.

**Conclusion:** The design alternative does not represent the highest and best use of the site. Furthermore, the design alternative would not achieve to the same extent as the project the Downtown Strategy 2000 goal of making the downtown a vibrant destination because there would be fewer residents due to the lost 189 units who would be able to take advantage of the transit options, urban services, and local entertainment compared to the proposed project. The project is otherwise consistent with the project objectives.

## **C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the design alternative because the project's significant unavoidable shading impact would be avoided. The design alternative would achieve most of the objectives of the proposed project.

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## **SECTION 10.0 LEAD AGENCY AND CONSULTANTS**

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### **10.1 LEAD AGENCY**

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Steve McHarris, Planning Official

Reena Brilliot, Acting Division Manager

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Shannon George, Senior Project Manager

Fiona Phung, Researcher

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Historic Consultants

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#### **Hexagon Transportation Consultants**

Transportation Consultants

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#### **Holman and Associates**

Archaeological Consultants

San Francisco, CA

#### **Illingworth & Rodkin**

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