Initial Study

Greyhound Residential Project

File No. SP16-021 & T16-017

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

December 2016

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SECTION 1.0 INTRODUCTION AND PURPOSE

This Initial Study (IS) has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq), and the regulations and policies of the City of San José. The purpose of this IS is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

On June 21, 2005, the City Council certified the Downtown Strategy 2000 EIR (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 existing 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 Greyhound residential project was circulated, these development levels had not been met including constructed, approved, and projects currently on file.

The original 2005 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, certified in September 2011 and supplemented in December 2015. Therefore, the 781 residential units included in the proposed project have been evaluated in the original 2005 EIR at a program-level, which remains current.

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, including impacts to historic resources would require additional review. This Supplemental EIR provides that subsequent project-level environmental review.

The *San Jose Downtown Strategy 2000 Final Environmental Impact Report* (FEIR) was a broad range, program-level environmental document. The FEIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. All subsequent development that has occurred as part of the *San Jose Downtown Strategy 2000* plan has had project specific supplemental environmental review.

In 2011, the City of San Jose approved the *San Jose 2040 General Plan,* which is a long-range program for the future growth of the City. The *San Jose 2040 General Plan FEIR* was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the *San Jose 2040 General Plan FEIR* to be a program level document from which subsequent development consistent with the General Plan could tier. The City of San José also approved a Supplemental EIR (*San Jose 2040 General Plan SEIR)* for the Envision San José 2040 General Plan to include and update the greenhouse gas emissions analysis in December 2015.

This IS 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 *San Jose 2040 General Plan.*

Tiering From Previous EIRs

In accordance with CEQA, this Initial Study, as part of the Supplemental Environmental Impact Report (SEIR), will be a supplemental to the *2005 Downtown Strategy Plan FEIR* and tier from both the *San Jose 2040 General Plan FEIR* and the *2005 Downtown Strategy 2000 Plan FEIR.* The CEQA Guidelines contain the following information on tiering an environmental document:

> **§ 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.

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Greyhound Residential Project

2.2 PROJECT LOCATION

The project site is located on South Almaden Avenue between West San Fernando Street and Post Street in downtown San José.

Figure 1.2-1 Regional Map
Figure 1.2-2 Vicinity Map
Figure 1.2-3 Aerial Map

2.3 LEAD AGENCY CONTACT

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Krinjal.mathur@sanjoseca.gov
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San Jose, Ca 95113

2.4 PROPERTY OWNER/PROJECT APPLICANT

K.T. Urban and Full Standard Properties, LLC

2.5 ASSESSOR'S PARCEL NUMBERS

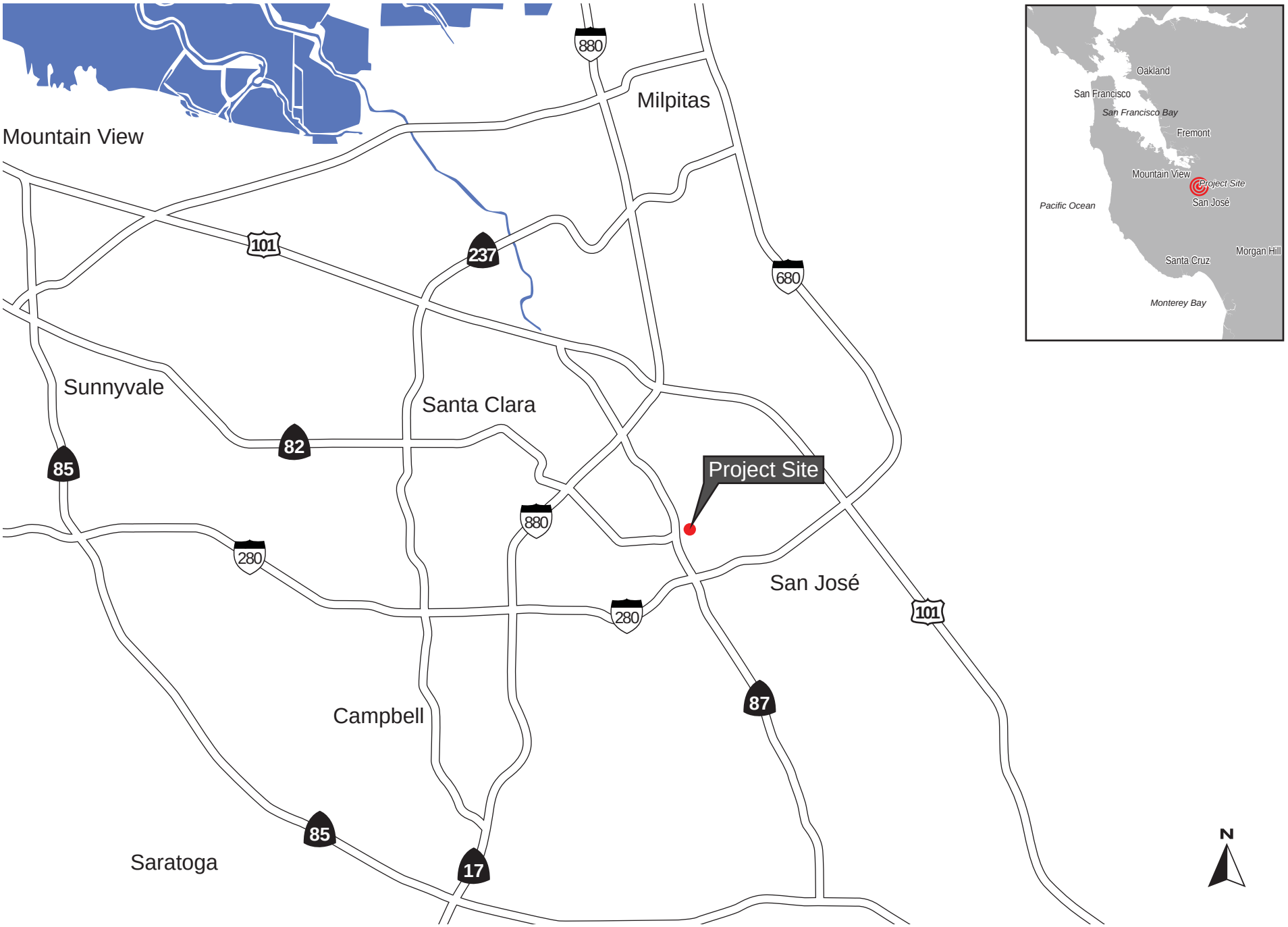
259-40-012
259-40-013
259-40-014
259-40-015
259-40-016

2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

General Plan Designation – Downtown
Zoning Designation – DC - Downtown Commercial

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS

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

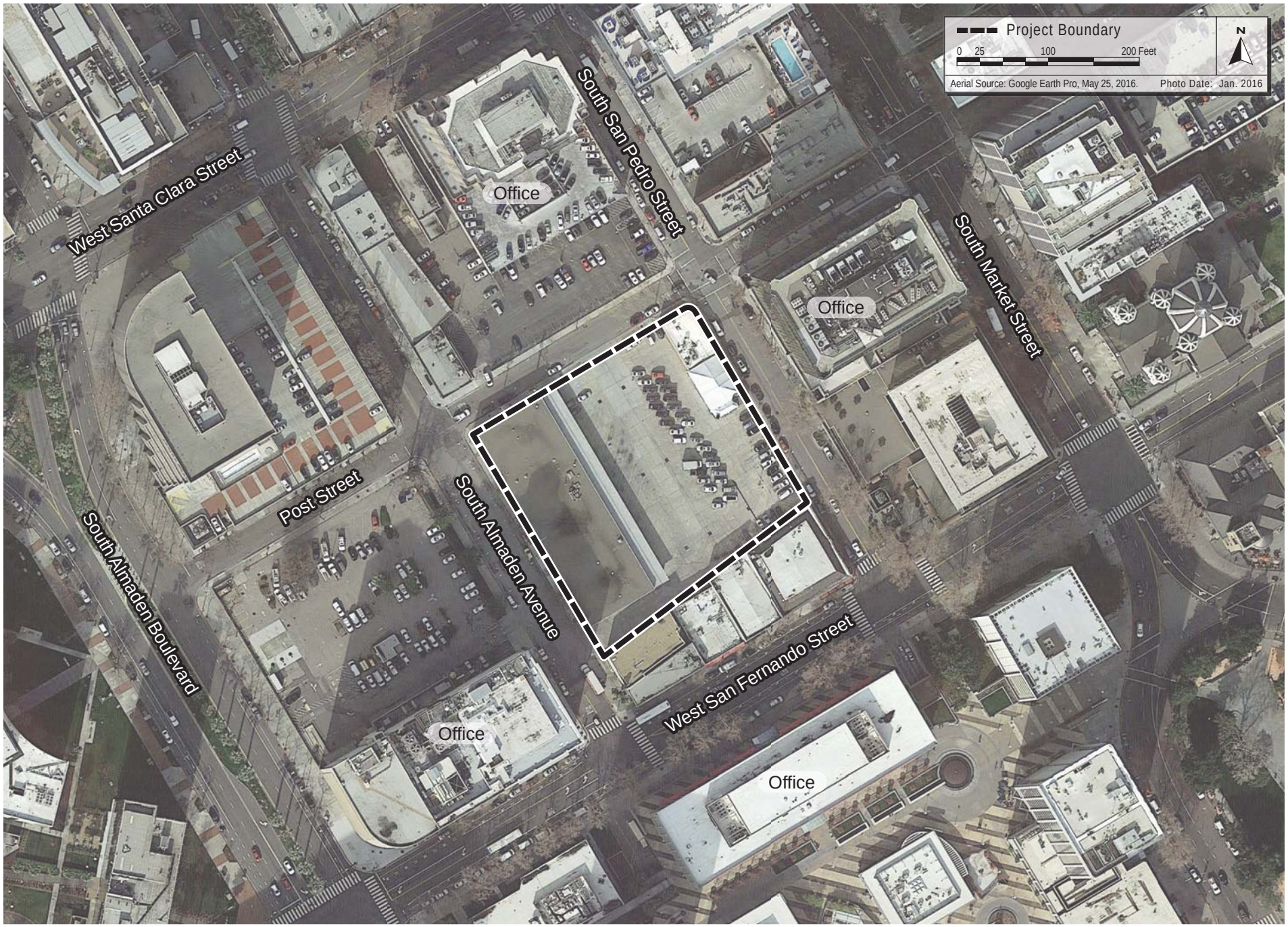


REGIONAL MAP

FIGURE 2.2-1

VICINITY MAP

FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 2.2-3

SECTION 3.0 PROJECT DESCRIPTION

The project parcel has three street frontages, Post Street to the north, S. San Pedro Street to the east, and S. Almaden Street to the west. The 1.74-acre site is currently developed with a Greyhound bus station on the western portion of the site and a large surface parking lot on most of the eastern portion of the site. A one-story commercial building is located at the northeast corner of the project site. The project site is currently accessed by one ingress/egress driveway on Post Street and one ingress/egress driveway on Almaden Avenue. Greyhound operations were recently relocated to the Diridon Station (located approximately 0.5 miles west of the project site) which is the main transit center for San Jose.

3.1 PROPOSED DEVELOPMENT

As proposed, the project would demolish both buildings and construct two residential towers with ground floor retail. The north tower would be 23 stories (242 feet tall) with up to 371 residential units and the south tower would be 24 stories (252 feet tall) with up to 410 residential units, for a combined total of 781 residential units (449 dwelling units/acre). Approximately 20,000 square feet of ground floor retail would be located within the towers along S. Almaden Avenue, Post Street, and San Pedro Street. The first floor would include the retail space and parking and the second floor would be for parking. The residential units would be located on the remaining floors. The building would have a total square footage of 1,029,065, with a floor area ratio (FAR) of 13.6 (see Figures 3.0-1 and 3.0-2).

3.1.1 Amenities

A pool deck and common open space area totaling approximately 20,000 square feet is proposed on top of the second floor parking level, between the towers (see Figure 3.0-3).

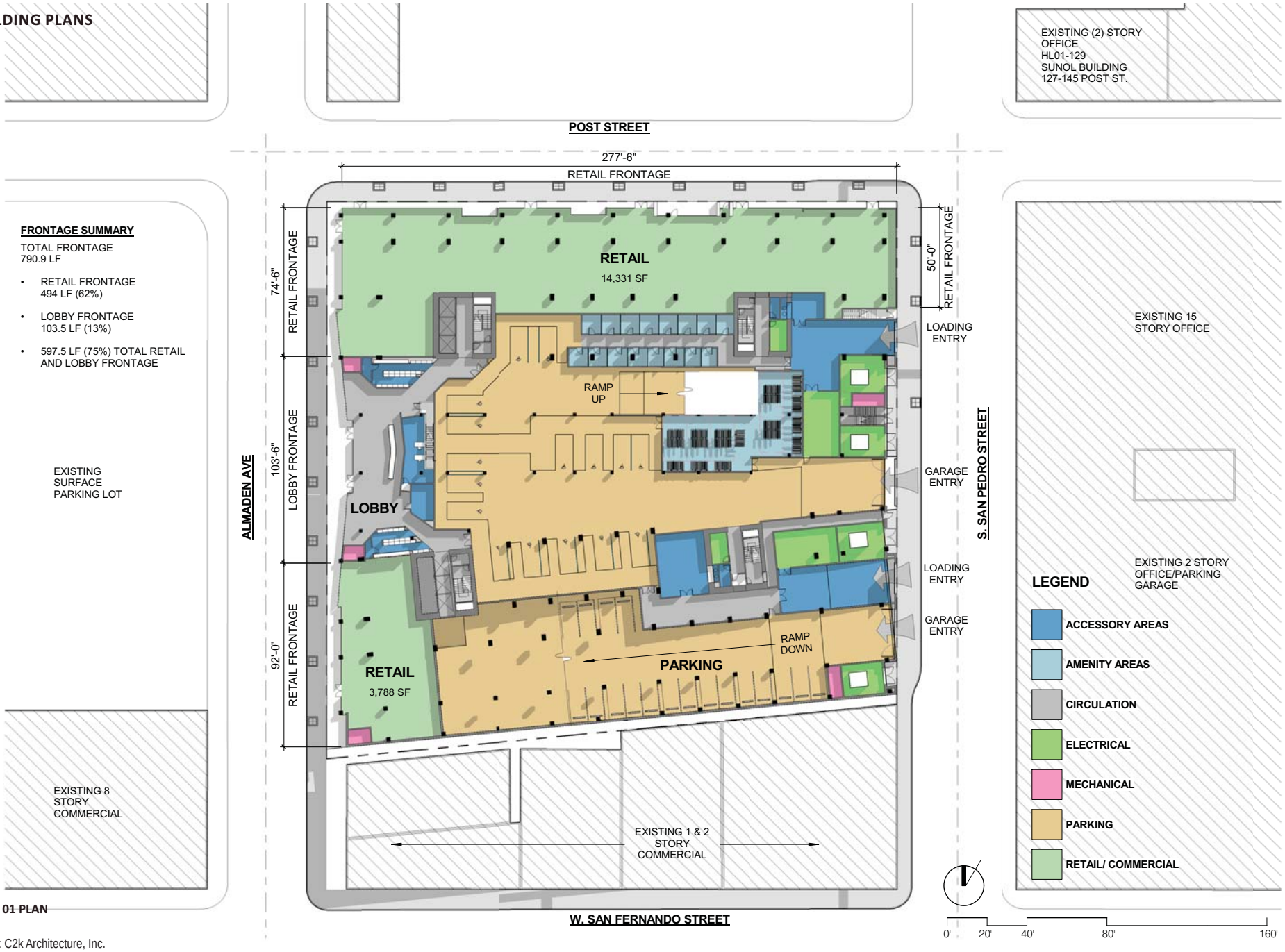
3.1.2 Parking and Access

Residential parking would be provided on-site within four levels of below-grade and two levels of above-grade parking. The garage would have a total of 786 parking spaces (1.01 spaces per unit). The five and a half levels of parking would be shared between the towers with no physical separation. The parking structure will not be visible from the surrounding sidewalks/roadways as the above-grade parking levels will be wrapped by the ground floor retail and service spaces. No on-site parking is proposed for the retail component of the project. A total of 195 bicycle parking spaces will be provided.

The proposed building would have no setback from the sidewalks along the street frontages. A five-foot wide setback would be located along the southern boundary of the project site (between the building and the existing commercial structures along W. San Fernando Street) to allow for pedestrian access through the site. In addition, new 12-foot sidewalks would be installed along the project frontages on Post and San Pedro Streets.

The section of Almaden Avenue along the project frontage would be modified to accommodate the project. The roadway currently measures 50 feet from curb face to curb face, with 20-foot travel lanes and 10 feet on the east side of the roadway dedicated to drop off parking for the previous bus

BUILDING PLANS



LEVEL 01 PLAN

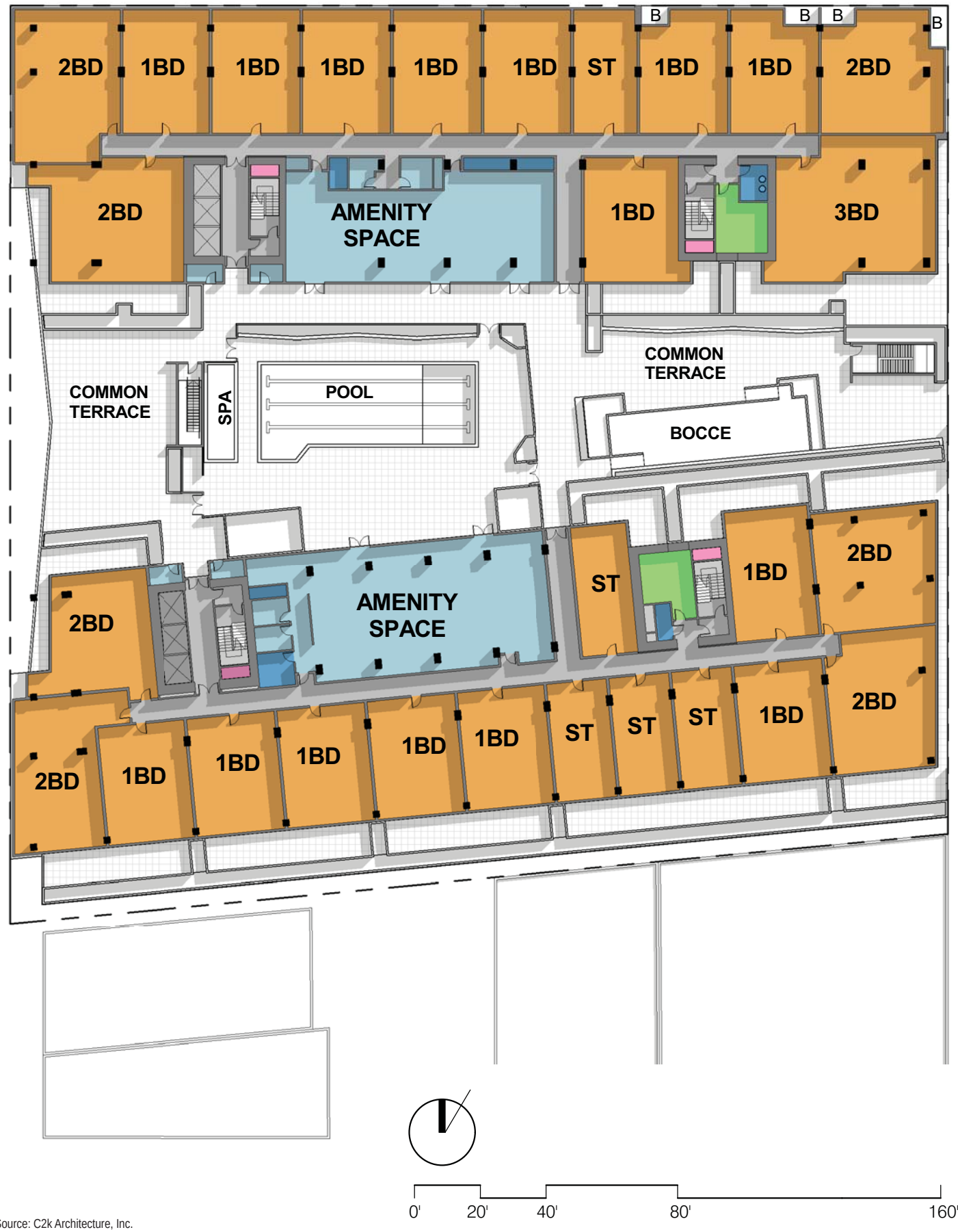
Source: C2k Architecture, Inc.

CONCEPTUAL SITE PLAN

FIGURE 3.0-1

Source: C2k Architecture, Inc.

SECOND FLOOR PLAN FIGURE 3.0-2



Source: C2k Architecture, Inc.

THIRD FLOOR PLAN FIGURE 3.0-3

station operations. There are 10-foot sidewalks on either side of the roadway. As proposed, the 10 feet of right of way (ROW) currently dedicated to drop-off parking would be vacated to allow for a five-foot easement for the building and underground parking structure and expansion of the sidewalk. With the roadway vacation and easement, the roadway would maintain the 20-foot travel lanes and have a 15-foot sidewalk on the east side of the roadway, along the project frontage.

3.1.3 Green Building Measures

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

- High performance glazing to reduce solar heat gain to the interior of the building, thereby reducing the energy require for cooling.
- Optimized building envelope to ensure the proper levels of insulation are provided in all surfaces to reduce the overall energy use of the building.
- Daylighting to utilize sunlight for the lighting of interior common spaces through the use of photoelectric sensors that reduce artificial light levels when adequate daylight is sensed, thereby reducing electric power use.
- High efficiency water-source heat pumps specified to a higher SEER value than industry standards to achieve energy savings of 15 to 20 percent.
- Variable-speed pumping systems for domestic cold water to reduce the pumping flow when demand for water is low, thereby reducing power required for pumping.
- Condensing boilers for domestic hot water that operate at higher efficiencies (90 to 96 percent) than industry standards (80 percent), reducing the use of natural gas.
- Garage exhaust fans with CO based controls that operate at full flow only when carbon monoxide is dedicated, eliminating the need for exhaust fans to run continuously at full flow.

3.1.4 Existing Land Use Designation and Zoning

The project site is designated *Downtown* in the *San Jose 2040 General Plan* and is zoned *DC – Downtown Commercial*, consistent with the General Plan.

The *Downtown* General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, development of up to a floor area ratio (FAR) of 30.0 and residential densities up to 800 dwelling units per acre (DU/AC). Under this designation, residential projects should generally incorporate ground floor commercial uses. Please refer to Section 3.2 of the SEIR for a discussion of the project's consistency with the General Plan designation.

Permitted land uses under the DC zoning are consistent with the *Downtown* General Plan land use designation. Based on the DC zoning, development shall only be subject to the height limitations necessary for the safe operation of Mineta San Jose International Airport. There are no minimum setback requirements. Please refer to Section 3.2 of the SEIR for a discussion of the project's consistency with the zoning designation.

SECTION 4.0 SETTING, ENVIRONMENTAL CHECKLIST AND IMPACTS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines §15370). Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as "Avoidance Measures."

Important Note to the Reader: The California Supreme Court in a December 2015 opinion [California Building Industry Association (CBIA) versus 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., noise) affecting a proposed project, which are also addressed below. 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 City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 Project Site

The 1.74-acre project site is located in an urban area within downtown San José. The site is currently developed with the Greyhound bus station (constructed in 1957), a large surface parking lot, and a small one-story commercial building (constructed in 1933). The bus station is a two-story building with prominent vertical structure beams spanning the full height of the front façade. The beams are equally spaced across the entire façade. The entrance to the station terminal is centrally located and has two sets of double glass doors. Small storefronts are located to the north and south of the entrance. A large electric sign with the Greyhound logo is attached to the building directly over the entrance. The bus parking area to the rear of the building is not visible from S. Almaden Avenue, but can be seen from Post Street and S. San Pedro Street. There is an overhang on the back of the building, covering the area for passenger loading and unloading. The parking area is surrounded by a chain link fence. The site does not have any landscaping; however, there are five street trees located in front of the bus station on S. Almaden Avenue (see Photos 1 and 2).

At the northeast corner of the project site is a small, one-story commercial building. The building has an angled wall at the street corner which is the location of the main entrance. The north, east, and south facades of the building are clad in stucco. The west façade, which faces the bus station parking area, is brick. There are seven pilasters along the two street frontages and flanking the entrance which extend just beyond the roofline. The building has a small parapet between the pilasters. An covered outdoor seating area is attached to the south end of the building (see Photo 3).

4.1.1.2 Surrounding Land Uses

Development in the project area includes retail/commercial, office, and residential land uses. The buildings vary in height from one to 23 stories and utilize a variety of building materials. Immediately south of the project site are five one- to two- story commercial buildings, including a hotel, a bar, and small shops. The hotel (circa 1962) is a two-story rectangular structure with a flat roof. A large sign noting the name of the hotel is located on the front façade, facing S. Almaden Avenue. The sign has the same general design as the Greyhound sign. The primary architectural feature of the hotel is the decorative concrete block wall above the entrance (see Photo 4). Adjacent to the hotel, fronting on W. San Fernando Avenue, is a cluster of four one- to two-story commercial buildings. The western building is a two-story building with a brick and concrete façade and a flat roof. Upper light windows are interspersed with vertical brick elements along the front façade. The adjacent building is a one story brick building in a herringbone pattern. Large storefront windows span the front façade. The third building is a two-story building with large storefront windows and upper light windows. Minimal brick details are located below the storefront windows. The eastern building, at the corner of S. San Pedro Street and W. San Fernando Street, was previously occupied by an automotive business and still retains the roll-up service doors along the front façade. Prominent columns separate the doors (see Photo 5).

Along the east side of S. San Pedro Street, directly across from the project site, are office buildings that vary in height with a parking garage in between. The larger building (15 stories), referred to as

PHOTO 1: View of the existing bus station, looking northeast from South Almaden Avenue.

PHOTO 2: View of the large surface parking lot, looking west.

PHOTOS 1 AND 2

PHOTO 3: View of the commercial building at the North East corner of the project site, looking west from South San Pedro Street.

PHOTO 4: View of Plaza Hotel, looking south from South Almaden Avenue.

PHOTOS 3 AND 4

PHOTO 5: View of an retail/commercial businesses, looking west from the West San Fernando Street.

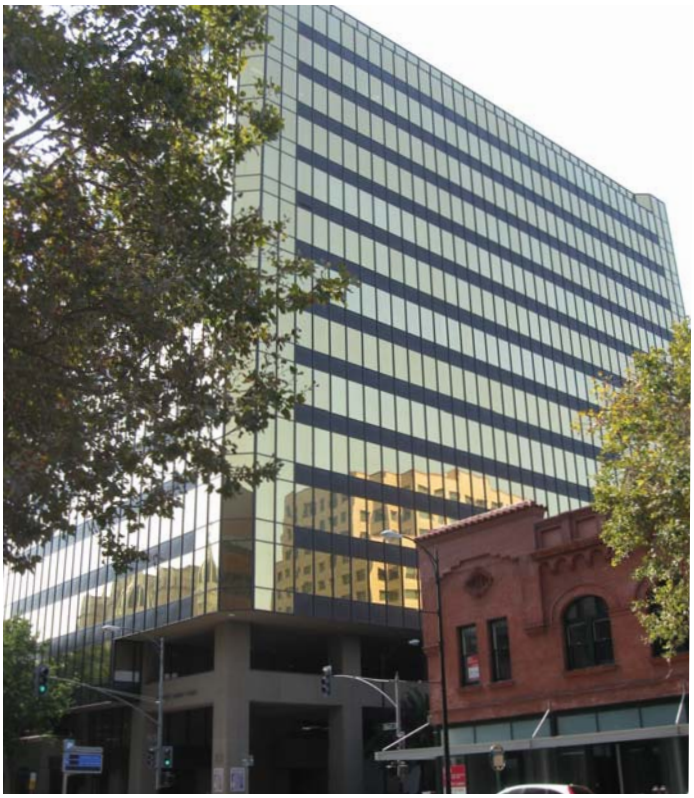


PHOTO 6: View of the Market-Post Tower, looking southwest from S. Market Street.

PHOTOS 5 AND 6

PHOTO 7: View of the Sunol Building, looking northeast from Post Street.

PHOTO 8: View of the Berger Building, looking north from S. Almaden Avenue.

PHOTOS 7 AND 8

PHOTO 9: View of the AT&T Building, looking south from the project site.

PHOTO 9

Market-Post Tower, is distinctive in that it is clad is gold, reflective glass panes. North of the Market-Post Tower is the Sunol Building, a two-story brick building with both arched and oval windows and prominent full-story windows along the building frontage. The Sunol Building is adjacent to a recently constructed 23-story residential tower and three-story parking structure. The parking structure is concrete and the tower is clad in glass curtain walls in varying shades of blue. (see Photos 6 and 7)

Along the north side of Post Street is a large surface parking lot surrounded by a chain-link fence and the Berger Building. This parking lot is the site of an approved 21-story residential mixed-use building. The Berger Building is a one-story, Art Deco style, concrete structure with a flat roof. The facades are divided into bays by fluted pilasters. The storefront windows between the pilasters have been enclosed, but the upper lite windows above the storefronts are intact. Glazed tiles are located below the storefronts. There are garage doors on both street frontages. (see Photo 8)

On the west side of S. Almaden Boulevard is a large surface parking lot and an eight-story office building comprised mostly of cement with interspersed windows. The building has no notable architectural features. (see Photo 9)

4.1.1.3 Applicable Aesthetics Regulations and Policies

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

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

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-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities

behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

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

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

4.1.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐	1-4
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1-4
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1-4
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the *San Jose 2040 General Plan FEIR*, the proposed project would result in less than significant aesthetics impacts, as described below.

4.1.2.1 Aesthetic Impacts *(Checklist Question #1-4)*

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character will differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the

community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the General Plan, the General Plan FPEIR, and *Downtown Strategy 2000 Final EIR*.

Scenic Vistas and other Scenic Resources

Most of San José is relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic views and no designated scenic resources. The project site is currently developed with a one-story building and a two-story bus station. Nearby buildings range from one to 23 stories in height. The proposed project would construct two residential towers (23 and 24 stories) and would not significantly diminish scenic views in the project area or damage any scenic resources because there are no designated scenic vistas or resources on-site or in the immediate project area. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Visual Character

The proposed project would be visible from roadways and surrounding properties. As noted above, the project is located in an urbanized area and is surrounded with a variety of architectural styles from multiple periods of San Jose development, and varying building heights.

The *Downtown Strategy 2000 FEIR* does not identify the project site as being within a designated scenic area. It does, however, identify urban design concepts that are applicable to the proposed project. Specifically, the *Downtown Strategy 2000 FEIR* identifies the need to incorporate a pedestrian orientation in new development (including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops) to ensure walkability and integration with the existing downtown. In addition, the *Downtown Strategy 2000 FEIR* identifies the need to make streetscape improvements (such as landscaping, shade trees, lighting, public art, street furniture, etc.) to enhance and increase pedestrian and transit use. Lastly, every effort should be made to incorporate existing historic landmark structures into future development plans for their sites and the surrounding area. These design concepts are intended to enhance the overall visual character of the downtown area.

Consistent with these design concepts, the project proposes pedestrian scale development along each of the street frontages, which would be the primary pedestrian pathways around the project site. The bicycle parking areas and lobby for the building would be located on S. Almaden Avenue. Retail shops would flank the lobby and be located along the entire Post Street frontage. The retail spaces will be double height, single-story spaces built up to the sidewalk. No pedestrian amenities would be provided along S. San Pedro Street to avoid conflicts with the project driveways. (see Figure 3.1-1)

The *San Jose 2040 General Plan FEIR* concluded that while new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character or quality of the City. The proposed project is comparable to the residential towers approved, under construction, or recently constructed to the north of the site, all of which the City deemed consistent with the visual character and quality of the City.

Future development on-site would comply with the adopted plans, policies, and regulations as outlined in the *San Jose 2040 General Plan FEIR*. In addition, the project would be required to

comply with all applicable urban design concepts adopted as part of the *Downtown Strategy 2000*. As a result, the proposed project would have a less than significant impact on the visual character and quality of the City. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Light and Glare

As stated above, development on the project site would be visible from surrounding roadways and properties. New development and redevelopment under the General Plan has the potential to create additional light or glare in the City. The project's sources of light and glare include external building lights, streetlights, parking lot lights, security lights, vehicular lights, internal building lights, and reflective building surfaces and windows.

The *San Jose 2040 General Plan FEIR* concluded that while new development and redevelopment under the General Plan could create new sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts. The proposed project would comply with the aforementioned General Plan policies and City Council Lighting Policy 4-3[1] and building materials would be reviewed during the building permit phase. Reflective materials would be minimally used or coated as needed to reduce glare. In addition, the project would be required to comply with all applicable urban design concepts adopted as part of the *Downtown Strategy 2000*. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 Conclusion

The project would have a less than significant impact on the visual character of the project area, and it would not impact any designated scenic resources. The project would not create significant additional sources of light and glare. Implementation of the project would have a less than significant visual impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[1] Policy 4-3 requires exterior lighting on private property to use be low-pressure sodium lighting. The lighting must be directed downward and fully or partially shielded depending on lumen levels.

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The project site is located within an urban area in downtown San José. The Santa Clara County Important Farmland 2012 Map designates the project site as *Urban and Built-Up Land*.[2] There are no forest lands on or adjacent to the project site.[3] The project site is not subject to a Williamson Act contract.

4.2.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	1-5
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	1-5
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	☐	1-4
4. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1-4

[2] "Urban and Built-up Land is defined as land with at least six structures per 10 acres and utilized for residential, institutional, industrial, commercial, landfill, golf course, and other urban-related purposes."
[3] California Natural Resources Agency. *Santa Clara County Important Farmlands 2012.* <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/scl12.pdf>. Accessed January 21, 2016.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the General Plan FPEIR, the proposed project would have no impact on agricultural and forest resources, as described below.

4.2.2.1 Agricultural and Forest Resources Impacts *(Checklist Questions #1-#4)*

The proposed project would result in the construction of two residential towers with ground floor retail and a shared parking structure. The project would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to non-agricultural uses. The project would not conflict with existing zoning for agricultural operations or facilitate the unplanned conversion of farmland elsewhere in San José to non-agricultural uses. There are no forest lands on or adjacent to the project site and, therefore, the project would not result in the loss of forest lands in San José. For these reasons, the project would not result in a significant impact to agricultural or forest resources. **[Same Impact as Approved Project (No Impact)]**

4.2.3 Conclusion

The project would have no impacts to agricultural or forest lands, consistent with the findings of the *Downtown Strategy 2000 FEIR* and the *San José 2040 General Plan FEIR*. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

This analysis is based on an air quality assessment prepared by *Illingworth & Rodkin* in August 2016. A copy of the report is provided in Appendix C.

4.3.1 Setting

4.3.1.1 Background Information

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

The Bay Area Quality Management District (BAAQMD) is responsible for assuring that the National and State ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four pollutants that are most commonly measured and regulated: carbon monoxide (CO), ground level ozone (O_3), nitrogen dioxide (NO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). These pollutants are considered criteria pollutants by the U.S. Environmental Protection Agency (U.S. EPA) and the California Air Resources Board (CARB) as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. As shown in Table 4.3-1, violations of State and Federal standards at the monitoring station in Downtown San José (the nearest monitoring station to the project site) during the 2013-2015 period (the most recent years for which data is available) include high levels of ozone and $PM_{2.5,}$ PM_{10}.[4,5]

Table 4.3-1: Number of Air Quality Violations and Highest Concentrations (2013-2015)

Pollutant	Standard	Days Exceeding Standard		
		2013	2014	2015
SAN JOSÉ STATION				
Ozone	State 1-hour	1	0	0
	Federal 8-hour	1	0	2
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	5	1	1
$PM_{2.5}$	Federal 24-hour	6	2	2

The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level O_3, State standards for PM_{10}, and Federal standards for $PM_{2.5}$. Based on air quality monitoring

[4] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.
[5] Bay Area Air Quality Management District. Annual Bay Area Air Quality Summaries. <http://www.baaqmd.gov/about-air-quality/air-quality-summaries> Accessed April 14, 2016.

data, the California Air Resources Board (CARB) has designated Santa Clara County as a "nonattainment area" for O_3 and PM_{10} under the California Clean Air Act (CAA). The County is either in attainment or unclassified for other pollutants.

4.3.1.2 Toxic Air Contaminants

Another group of substances found in ambient air are Hazardous Air Pollutants (HAPs) under the Federal CAA and Toxic Air Contaminants (TACs) under the California CAA. HAPs are identified by the U.S. EPA as known or suspected to cause cancer, serious illness, birth defects, or death. HAPs originate from human activities, such as fuel combustion and solvent use. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, State, and Federal level.

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

4.3.1.3 Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to exposure to pollutants (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, parks, and places of assembly. The nearest residences are approximately 250 feet northeast of the project site.

4.3.1.4 Applicable Air Quality Regulations and Policies

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

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

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

Policy MS-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐	1-4, 7
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	☐	1-4, 7
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☐	☒	☐	1-4, 7
4. Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	☐	1-4, 7
5. Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the General Plan FPEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors.

4.3.3 Air Quality Impacts

4.3.3.1 Bay Area 2010 Clean Air Plan *(Checklist Question #1)*

BAAQMD adopted the *Bay Area 2010 Clean Air Plan* (2010 CAP) in September 2010. This plan addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants, reducing exposure of sensitive receptors to TACs, and reducing greenhouse gas (GHG) emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020.

The project site is designated *Downtown* under the General Plan. The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, development of up to a floor area ratio (FAR) of up to 30.0 and residential densities up to 800 dwelling units per acre (DU/AC). The proposed project would include two residential towers and ground floor retail with an FAR of 13.6 and a residential density of 449 du/ac, which is consistent with the development assumptions in the General Plan.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided into five categories that include:

- Measures to reduce stationary and area sources;
- Mobile source measures;
- Transportation control measures;
- Land use and local impact measures; and
- Energy and climate measures

The consistency of the project with the applicable control measures is shown in Table 4.3-2.

Table 4.3-2: Bay Area 2010 Clean Air Plan Applicable Control Measures

Measure	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project proposes secure bicycle parking spaces for residents and retail customers and is, therefore, consistent with this control measure.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project site has been designed to be pedestrian oriented (including ground floor retail uses and street trees). In addition, the project would improve the existing sidewalks around the project site. These design features which enhance the overall pedestrian experience. The project is consistent with this measure.

Table 4.3-2: Bay Area 2010 Clean Air Plan Applicable Control Measures		
Measure	**Description**	**Project Consistency**
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The proposed mixed-use development is located in a mixed-use neighborhood in the downtown core within walking distance of existing bus stops, light rail, and a major transit hub (Diridon Station). The project would place residents and retail within walking distance of existing and planned residences, jobs, retail, and transit. The project is consistent with this measure.
Parking Pricing and Management Strategies	Promote policies to implement market-rate pricing of parking facilities, reduce parking requirements for new development projects, parking "cash-out", unbundling of parking in residential and commercial leases, shared parking at mixed-use facilities, etc.	The project would meet the City's parking requirements and would be required to implement a Transportation Demand Management Program. Therefore, the project is consistent with this control measure.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The project would be required to comply with the City's Green Building Ordinance, which would increase building efficiency over standard construction and proposes specific green building design measures to reduce energy usage. The project is consistent with this measure.
Tree-Planting	Promote planting of shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	The project would be required to conform to the City's Tree Removal Controls. Additionally, the project proposes to plant new street trees, which would help with the absorption of air pollutants and would increase shade. The project is consistent with this control measure.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.

The project also proposes the following energy conservation measures/design features that would further reduce GHG emissions:

- High performance glazing
- Daylighting
- High efficiency water-source heat pumps
- Variable-speed pumping systems
- Condensing boilers
- Garage exhaust fans with CO based controls

The project includes energy conservation measures and is consistent with the City's General Plan. The project would not result in a significant impact related to consistency with the CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.2 Operational Impacts to Regional and Local Air Quality

(Checklist Questions #2 and #3)

Operational Criteria Pollutant Emissions

The proposed project would result in the construction of two residential towers with ground floor retail and a shared parking structure. The tower would have up to 781 dwelling units and 20,000 square feet of retail space, which is part of the planned growth included in the *Downtown Strategy 2000.*

The *Downtown Strategy 2000 FEIR* concluded that development under the *Downtown Strategy 2000* would have a significant unavoidable impact on criteria pollutants. The proposed project is infill urban development that will promote non-auto travel for future site occupants due to the site's proximity to various transit modes. The *Downtown Strategy 2000 FEIR* identified specific transportation demand management (TDM) measures to help reduce vehicle trip emissions, which are the primary contributor to criteria pollutants. The proposed project includes the following measures consistent with the mitigation identified in the *Downtown Strategy 2000 FEIR:*

1. Transit Measures:
    a. Design and locate buildings to facilitate transit access

2. Services Measures:
    a. Provide on-site shops and services such as bank/ATM, dry cleaners, convenience market, etc.

3. Bicycle and Pedestrian Measures:
    a. Provide secure, weather-protected bicycle parking
    b. Provide safe, direct access for bicyclists to adjacent bicycle routes
    c. Provide direct, safe, attractive pedestrian access from Planning Area to transit stops and adjacent development.

While the project, by itself, would likely result in a significant criteria pollutant impact, the overall effects of development under the *Downtown Strategy 2000* have already been identified and a Statement of Overriding Consideration adopted. Development of the proposed project would not

result in a new significant air quality impact. **[Same Impact as Approved Project (Significant Impact)]**

Carbon Monoxide Emissions

A determination of the project's potential to result in significant local air pollutant emissions (i.e. carbon monoxide) is based on its consistency with the local Congestion Management Program and its potential to add sufficient vehicle trips to one or more intersections that would cause the intersection(s) to exceed 44,000 vehicles per hour.

The proposed mixed-use building was calculated to generate 4,966 daily trips based on the trip rates for "apartments" and "specialty retail/strip commercial" in the San Jose TIA Handbook. The daily trips do not include any reduction for traffic trips generated by the existing land uses (bus station and commercial building) on-site.

Given the existing average daily traffic volumes of the surrounding roads, which are primarily secondary roads and not primary access roads, the addition of 4,966 new daily trips would not contribute vehicle traffic exceeding screening thresholds for carbon monoxide impacts at the intersections affected by the project (i.e., would not cause one or more intersections to exceed 44,000 vehicles per hour). The project, therefore, would have a less than significant local air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.3 Construction Impacts to Regional and Local Air Quality

(Checklist Questions #2 and 4)

Criteria Pollutants

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. The proposed project exceeds the BAAQMD construction screening criteria of criteria pollutants for high-rise residential development; therefore, a detailed air quality assessment was completed to address construction air quality impacts from the proposed project.

Table 4.3-3 shows an estimate of daily air emissions from construction of the proposed project based upon a detailed air analysis using CalEEMod. The modeling scenario assumed that the proposed project would be built over a 24-month period with an assumed start date of April 2017.

Table 4.3-1: Average Daily Construction Emissions from the Project

Description	ROG	NOx	PM_{10}	$PM_{2.5}$
Total Construction Emissions (tons)	8.06	7.16	0.13	0.12
Average Daily Emissions (pounds per day)	30.5	27.1	0.5	0.5
BAAQMD Thresholds (pounds per day)	***54***	***54***	***82***	***54***

As shown in Table 4.3-3, the emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust associated with construction of the project would not exceed the BAAQMD significance thresholds and, therefore, would not result in a significant impact from construction emissions.

The General Plan FEIR concluded that construction emission impacts could be reduced to a less than significant level with the implementation of General Plan policies and existing regulations. In addition, these emissions would be temporary. Therefore, the proposed project would have a less than significant criteria pollutant emissions impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Dust Generation

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of particulate matter downwind of construction activity.

Consistent with City policies and as a condition of approval, the project shall implement the following measures during all phases of construction on the project site to reduce dustfall and locally-elevated particulate matter emissions:

Standard Permit Conditions

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number for a Disturbance Coordinator, established by the project applicant, regarding dust complaints. The Disturbance Coordinator shall be available 24 hours a day, seven days a week to respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the standard permit conditions, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Toxic Air Contaminants

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust which is also a known TAC. The nearest sensitive receptors to the project site are the residences near the northeast corner of San Pedro Street and Post Street.

A health risk assessment of construction activities was completed to evaluate emissions of diesel particulate matter (DPM) and associated health risks to the nearby residential areas. To quantify the effects of DPM on the nearby sensitive receptors, construction period exhaust emissions were computed using the CalEEMod model. The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM at existing residences in the vicinity of the project site. The cancer risk calculations were based on applying the BAAQMD recommended age sensitivity factors to the DPM exposures. Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer causing TACs. The number and types of construction equipment and diesel vehicles, along with the anticipated length of their use for different phases of construction were based on site-specific construction activity schedules provided by the project applicant.

Neither BAAQMD nor the City of San Jose have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts in the 2011 CEQA Air Quality Guidelines are used by the City of San Jose. Based on these guidelines, a project would result in a significant construction TAC or $PM_{2.5}$ impact if:

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

The sensitive receptor locations that could be effected by project construction are shown in the figure. The maximum exposure from construction emissions was found to occur on the first floor of the adjacent motel.

The maximum incremental residential child

cancer risk was calculated to be 36.5 cancer cases per million and the adult cancer risk was calculated to be 0.7 cancer cases per million. While the adult cancer risk is well below the BAAQMD threshold of 10 cancer cases per million, the child exposure is not. Because the child cancer risk exceeds 10 cases per million, the proposed project could have a significant community risk impact on nearby sensitive receptors during construction activities. The maximum annual $PM_{2.5}$ concentration was calculated to be 0.396 micrograms per cubic meter ($\mu g/m^3$), which exceeds the BAAQMD significance threshold of 0.3 $\mu g/m^3$.

Impact AIR-1: Construction activities associated with the proposed project would expose children near the project site to temporary TAC emissions in excess of acceptable risk thresholds. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures would be implemented during all demolition and construction activities to reduce TAC emissions impacts:

MM AIR-1.1: All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AIR-1.2: The project applicant shall submit a construction operations plan to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by a qualified air quality specialist which verifies that the equipment included in the plan meets the standards set forth in Mitigation Measure AIR-1.1.

Consistent with the General Plan FPEIR and Mitigation Measure AIR-1 of the Downtown Strategy 2000 FEIR, the Standard Permit Conditions noted above would also be implemented during construction to reduce exposing nearby residents to TAC emissions.

These Standard Permit Conditions and the mitigation measures are intended to establish a process that minimizes fugitive dust and exhaust emissions that protect the health and safety of nearby sensitive receptors such that temporary construction emissions would not exceed the BAAQMD significance thresholds for community risk and hazard impacts.

With implementation of the identified Standard Permit Conditions and Mitigation Measures, the residential child cancer risk during construction would be reduced to 6.0 cases per million which is below the 10 per one million cases threshold. The annual $PM_{2.5}$ concentration would be reduced to 0.14 $\mu g/m^3$, which is less than BAAQMD's single- source significance threshold of 0.3 $\mu g/m^3$**.** Therefore, the proposed project would result in a less than significant community risk impact due to construction activities. **[New Impact (New Less Than Significant Impact With Mitigation)]**

4.3.3.4 Cumulative Air Quality Impacts *(Checklist Question #3)*

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

4.3.3.5 Odor Impacts *(Checklist Question #5)*

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. The odor of these emissions may be noticeable from time to time by adjacent receptors; however, the odors would be temporary and are not likely to affect people off-site.

Implementation of the proposed project would create temporary emission odors during equipment operation and truck activity. With implementation of the permit conditions outlined in Section 4.3.3.3, however, the emission odors are not likely to affect people off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.6 Project Air Quality Issues Not Covered Under CEQA

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

Community Risk Impacts – Toxic Air Contaminants

BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in close proximity the roadway. A review of the project area indicates that traffic on Santa Clara Street is the only substantial source of mobile TAC emissions within 1,000 feet of the project site.

In addition to the nearby roadway, stationary source emissions at 14 permitted facilities could affect the project site. Of the 14 site, five exceeded the BAAQMD screening risk thresholds. These five facilities are noted in Table 4.3-4 below. The remaining facilities are shown in Table 4.3-5.

Table 4.3-4: Stationary Source Facilities			
BAAQMD No.	**Facility Name**	**Address**	**Emission Sources**
12969	Verizon Business	55 S. Market Street	1 generator
13528	Pacific Bell	95 S. Almaden Avenue	2 generators 1 fire pump
15169	Adobe Systems, Inc.	151 Almaden Avenue	3 generators 3 fire pumps
16647	Equity Office Properties	10 Almaden Boulevard	1 generator 1 fire pump
20903	CoreSite	55 S. Market Street	6 generators

The significance criteria used by the City of San José are that a project would result in a significant TAC or $PM_{2.5}$ exposure if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) Hazard Index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter (µg/m3) annual average PM2.5.

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site. Both mobile (vehicular) source and stationary sources of TACs can result in significant TAC or $PM_{2.5}$ exposure.

Receptor exposure to TAC emissions was evaluated for floors 3-9 of the proposed towers because these were the floors determined to have the maximum exposure levels. The level of community risk associated with both mobile and stationary sources is shown in Table 4.3-5.

Table 4.3-5: Mobile and Stationary Source Community Risk Levels			
Source	**Cancer Risk (per million)**	**Annual PM2.5 Concentration (µg/m3)**	**Hazard Index**
Plant 12969, 13528, 15169, and 16647 (combined)	21.9	0.04	<0.01
Plant 20903 (was 13588)	3.8	<0.01	<0.01
Plant 19758	4.7	<0.01	0.01
Plant 14985	1.2	<0.01	<0.01
Plant 8556	0.5	<0.01	<0.01
Plant 16778	1.2	<0.01	0.13
Plant 14713	1.5	<0.01	<0.01
Plant 21548 (was 19420)	7.5	<0.01	<0.01
Plant 14687	0.7	<0.01	<0.01
Plant 14177	1.9	<0.01	<0.01

Plant 22398 (was 16706)	1.2	<0.01	<0.01
Santa Clara Street	8.0	0.01	<0.01
Total	***48.9***	***<0.26***	***<0.24***
BAAQMD Threshold – Single Source	>10.0	>0.3	>1.0
BAAQMD Threshold – Cumulative Sources	>100	>0.3	>10.0
Threshold Exceeded?	**No**	**No**	**No**

While future residents of the project site would not have an increased health risk from the combined mobile and source emissions in the project area, the current stationary source emissions from 95 S. Almaden Avenue would exceed the BAAQMD cancer risk single source threshold. The maximum cancer risk from this facility would be 18.7 in one million.

Consistent with General Plan Policy MS-11.1, the project would be required to include the following measures as a condition of project approval:

Standard Permit Conditions

1. Install air filtration that serves all residential dwelling units in the third through ninth floors. Air filtration devices shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors, the ventilation system shall meet the following minimal design standards:
    a. A MERV13 or higher rating (as specified above);
    b. At least one air exchange(s) per hour of fresh outside filtered air; and
    c. At least four air exchange(s) per hour recirculation.

    Alternately, at the approval of the City, equivalent control technology may be used if it is shown by a qualified air quality consultant or heating, ventilation, and air conditioning (HVAC) engineer that it would reduce risk below significance thresholds.

2. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required. Recognizing that emissions from air pollution sources are decreasing, the maintenance period shall last as long as significant excess cancer risk exposures are predicted. Subsequent studies could be completed by an air quality expert approved by the City to identify the ongoing need for the filtered ventilation systems as future information becomes available.

3. Ensure that the lease agreement and other property documents (1) require cleaning, maintenance, and monitoring of the affected units for air flow leaks; (2) include assurance that new owners and tenants are provided information on the ventilation system; and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

4. Require that, prior to final design or occupancy, an authorized air pollutant consultant verify the all necessary measures to reduce TAC exposure.

With implementation of the identified measures as a condition of project approval, interior emission levels would be reduced by 80 percent compared with outdoor emission levels. If it is assumed that future residents would have two hours of outdoor exposure on-site plus one hour with residence windows open per day, the measures would reduce emission exposure by 70 percent. A 70 percent reduction equates to a cancer risk of 5.6 in one mission, which is below the BAAQMD threshold. Therefore, with implementation of the required conditions, the project would consistent with General Plan Policy MS-11.1 as it relates to mobile and stationary sources of TACs.

4.3.4 Conclusion

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

With implementation of the identified mitigation, the project would not result in significant construction-related regional or local air quality impacts. **[New Impact (New Less Than Significant Impact with Mitigation)]**

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on tree survey prepared by *David J. Powers & Associates, Inc.* in February 2016.

4.4.1 Regulatory Setting

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened, or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA are consistent with and complimentary to the various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

4.4.1.1 City of San José Tree Ordinance

Ordinance-sized and heritage trees and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.32.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade of slope. A tree removal permit is required from the City prior to removal of ordinance-sized trees.

4.4.1.2 Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) was adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW) in October 2013. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The 16.55-acre project site is located within the Habitat Plan study area and has a land cover designation of *Urban-Suburban.*

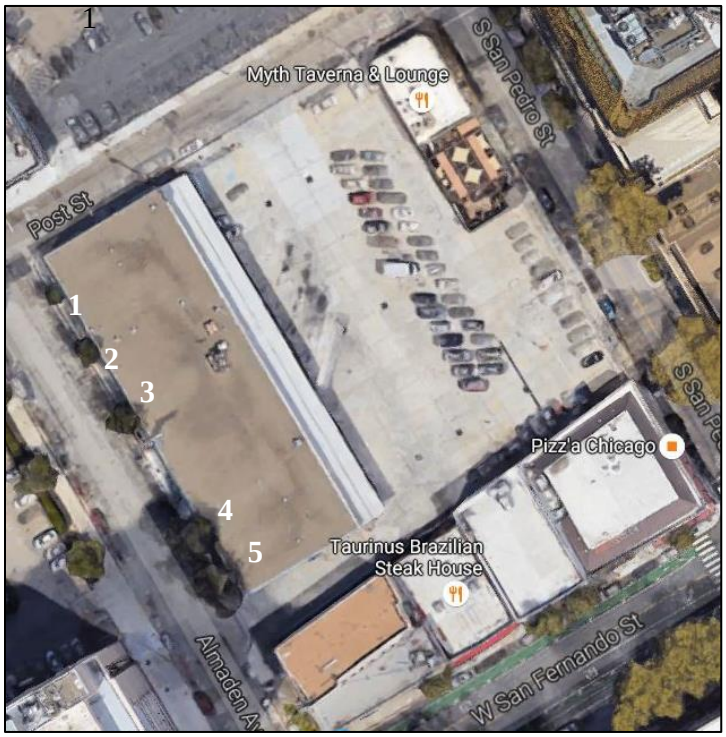
4.4.2 Existing Setting

The project site is currently developed with a bus station, a large surface parking lot and a small commercial building. The majority of downtown contains urban development with buildings, pavement, and associated ornamental landscaping. Habitats in the project area are low in species diversity and include predominately urban adapted birds and animals.

4.4.2.1 Special Status Animal Species

Special status species are plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); planted listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Wildlife. Special status animal species in the Bay Area use habitats that are not present on the project site. Salt marsh, freshwater marsh, and serpentine grassland habitats are also not present on the project site. Since the native vegetation of the area is no long present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area.

4.4.2.2 Trees



Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment.

There are no trees located on the project site; however, there are five street trees located immediately adjacent to the project site. The five trees are Raywood ash which is a non-native species. The project proposes to remove the street trees adjacent to the site.

The following table lists the identified trees adjacent to the project site. The location of the trees is shown on the adjacent figure.

Table 4.4-1: Tree Species Observed on Site

Tree #	Scientific Name	Common Name	Circumference in Inches	Diameter in Inches
1	*Fraxinus angustifolia*	Raywood Ash	10	3.2
2	*Fraxinus angustifolia*	Raywood Ash	53	17
3	*Fraxinus angustifolia*	Raywood Ash	51.5	16.4
4	***Fraxinus angustifolia***	**Raywood Ash**	**65**	**21**
5	***Fraxinus angustifolia***	**Raywood Ash**	**78**	**25**

Note: Ordinance sized trees are 56+ inches in circumference.
Bold lettering denotes ordinance sized trees

4.4.2.3 Applicable Biological Regulations and Policies

The *Envision San José 2040 General Plan* includes the following biological resource policies applicable to all development projects in San José.

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies, or guidelines.

4.4.3 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	☐	1-4
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1-4
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☒	☐	☐	☐	1-4
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐	☐	1-4,8
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the General Plan FPEIR, the proposed project would result in less than significant biological resources impacts, as described in the discussion that follows.

4.4.3.1 Biological Resources Impacts *(Checklist Questions #1-#4 and #6)*

Vegetation, Habitats, and Wildlife

The majority of downtown San José is urban and developed with buildings, pavement, and associated landscaping. The remaining natural habitats are associated with approximately 9,000 linear feet of

the Guadalupe River and 3,750 linear feet of Los Gatos Creek that pass through the City.[6] The *Downtown Strategy 2000 FEIR* concluded that biological resources impacts would result primarily from development along the Guadalupe River and Los Gatos Creek corridors and from the loss of ordinance-sized trees. The project site is located approximately 0.25 miles east of the Guadalupe River and 0.35 miles east of Los Gatos Creek. There are no sensitive or natural habitats located on the project site. As a result, implementation of the project would not result in significant impacts to natural plant communities or special status or endangered species. **[Same Impact as Approved Project (Less Than Significant Impact)]**

There are no federally protected wetlands, as defined by Section 404 of the Clean Water Act, located on the project site. Therefore, the proposed project would not adversely affect special status species, riparian habitat, or wetland habitat. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Habitat Conservation Plan

The project site is within the Santa Clara Valley Habitat Conservation Plan (HCP) area. Private development in the plan area is subject to the HCP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;

- The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development;*[7] and

- In Figure 2-5 (of the HCP), the activity is located in an area identified as "Private Development is Covered," OR the activity is equal to or greater than 2 acres AND

  The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" OR

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

The project would require discretionary approval by the City and is consistent with activity described in Section 2.3.2 of the HCP. The project is classified as Urban-Suburban land with no special status species or habitat. The project would be subject to all applicable HCP fees (project-specific and cumulative nitrogen deposition impacts) and would have no impact on implementation of the HCP. **[New Less Than Significant Impact (Less Than Significant Impact)]**

[6] City of San José. *City of San José Downtown Strategy 2000 Final EIR*.
[7] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San Jose planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

Migratory Birds and Raptors Impacts

While the project site is located within an urban environment, the street trees adjacent to the property could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under provisions of the Migratory Bird Treaty Act and California Department of Fish Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800. The California Department of Fish and Wildlife defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

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

Mitigation and Avoidance Measures

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

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September 1 and January 31, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests would be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31). During this survey, the ornithologist would inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, would determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests would not be disturbed during project construction.

MM BIO 1-3: The project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permit.

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

4.4.3.2 Trees *(Checklist Question #5)*

The urban forest consists of landscape trees along residential and commercial streets and in landscaped areas at residences, local parks, in parking lots, and the perimeter of commercial and industrial developments. Within the City, the urban forest is considered an important biological resource because trees can provide habitat for a variety of birds and mammals.

Development of the proposed project would result in the loss of five street trees adjacent to the project site. As a condition of approval, trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

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

In accordance with City policy, tree replacement would be implemented as shown in Table 4-4.2. If all five trees are removed, two would be replaced at a 4:1 ratio and two would be replaced at a 2:1 ratio with minimum 24-inch box trees. One tree would be replaced at a 1:1 ratio with minimum 15-gallon container trees. The total number of replacement trees required to be planted would be 13 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

Table 4.4-2: City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.

- An alternative site(s) would be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement.

- A donation of $300 per mitigation tree on Our City Forest for in-lieu off-site tree planting in the community. These funds would be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

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

4.4.4 Conclusion

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

The potential loss of raptor nests and/or eggs during construction would be mitigated to a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

Because the project would comply with all applicable HCP fees and conditions, implementation of the project would have no impact on implementation of the HCP. **[New Less Than Significant Impact (Less Than Significant Impact)]**

4.5 CULTURAL RESOURCES

4.5.1 Setting

The project site is currently developed with a Greyhound Bus Station and associated parking lot, and a small commercial building. The project site is in proximity to three structures that are listed on the City's Historic Resources Inventory. The site is also within an area of known prehistoric and historic occupation.

4.5.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	☐	1-4,9
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☐	☒	☐	1-4,10
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐	1-4,10
4. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐	1-4,10

4.5.3 Conclusion

As proposed, the project would demolish the existing buildings and parking lot and construct a high density mixed-use building with two residential towers, ground floor retail, and underground parking. The proposed project would demolish a building eligible for listing on the City's Historic Resources Inventory as a Candidate City Landmark, as well as impact as yet unrecorded subsurface archaeological resources.

Based on the potential to impact historic structures and subsurface resources, the proposed project could result in a significant and unavoidable impact to cultural resources. The analysis of cultural resources impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

4.6 GEOLOGY AND SOILS

The following discussion is based upon a Soil Resource Report generated from the Natural Resources Conservation Service's website in February 2016. A copy of the report is attached in Appendix D.

4.6.1 Setting

4.6.1.1 Geology and Soils

The majority of the City of San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface. The project site subsurface is comprised of sand, silt, and clay sediments.

Expansive soils have a high shrink-swell potential that can impact the structural integrity of buildings and other structures. The soil in San José ranges from moderate to highly expansive. Soils on-site have a moderate to very high expansion potential.[8] The potential for erosion or landslide on or adjacent to the site is low.

4.6.1.2 Seismicity and Seismic Hazards

The project site is located within the San Francisco Bay Area, the most seismically active region in the United States. Based on a 2014 forecast completed by the U.S. Geological Survey, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044.[9]

Table 4.6-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	10.4 miles
Calaveras	8.5 miles
San Andreas	11.8 miles

Active faults near the project site are shown on table 4.6-1. Although the site is located within a seismically active region, it is not located within a currently designated Alquist-Priolo Earthquake Fault Zone,[10] Santa Clara County Fault Hazard Zone, or the City of San José Potential Hazard Zone.[11] The risk of fault rupture is low. Faults in the region are capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults.

[8] Soil Survey Staff. *Custom Soil Resource Report for Santa Clara Area, California, Western Part*. 2016. Available at: <http://websoilsurvey.nrcs.usda.gov/>

[9] U.S. Geological Survey. *UCERF3: A New Earthquake Forecast for California's Complex Fault System.* Fact Sheet 2015-3009. March 2015. Available at: http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf. Accessed February 8, 2016.

[10] Santa Clara County, *Santa Clara County Geologic Hazard Zones*, Map 12. <https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf> Accessed April 29, 2016.

[11] California Department of Conservation. CGS Information Warehouse: Regulatory Maps. Map. <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed April 29, 2016.

4.6.1.3 Liquefaction and Lateral Spreading

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the California Department of Conservation regulatory map, the project site is located within a potential liquefaction zone.[12]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such a steep bank of a stream channel. The nearest waterway is Guadalupe River, northwest of the project site. The physical distance between the proposed project site and Guadalupe River is approximately 0.72 miles. At this distance, the potential for lateral spreading on-site is low.

4.6.1.4 Applicable Geological Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

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

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

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.[13]

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain

[12] California Department of Conservation. CGS Information Warehouse: Regulatory Maps. Map. <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed February 10, 2016.
[13] The City Geologist will issue a Geologic Clearance indicating approval of the report.

properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.[14]

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	☐	1-4
b. Strong seismic ground shaking?	☐	☐	☐	☒	☐	1-4
c. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	1-4
d. Landslides?	☐	☐	☐	☒	☐	1-4
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	1-4

[14] This would also include review and approval of shoring plans.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐	1-4, 11
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☐	☒	☐	1-4, 11
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the *San Jose 2040 General Plan FEIR*, the proposed project would result in less than significant geology and soils impacts, as described below.

4.6.2.1 Geology and Soils Impacts *(Checklist Questions #1, 3-5)*

The project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years. Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake.

As proposed, the project would include excavation to a depth of 41 feet below the ground surface (bgs). The below-grade parking structure could be subject to hydrostatic pressure from the shallow groundwater aquifer. Hydrostatic pressure generated by ground shaking can result in the formation of sand boils or mud spouts, seepage of water through ground cracks, and destabilization of the underground parking garage.

The proposed project would be built and maintained in accordance with a site-specific geotechnical report (as required by the *Downtown Strategy 2000 FEIR)* and applicable regulations including the 2013 California Building Code which contains the regulations that govern the construction of structures in California. The site-specific geotechnical report would address the potential for liquefaction-induced and static settlement, shallow groundwater, and effects of site dewatering per the standard permit condition outlined below.

Standard Permit Conditions

- Prior to issuance of any site-specific grading or building permits, a design level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from undocumented fill, expansive soils, and differential settlement. Options to address these conditions would include excavation to remove undocumented soils as part of the subgrade garage construction and the use of soil cement columns (drilled displacement piles) to support a mat foundation.

Because the proposed project would comply with the regulations identified in the *San Jose 2040 General Plan FEIR* and the standard permit conditions, the project would not result in a significant geologic impact. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

The project site and surrounding areas are relatively flat and have a moderate to very high soil expansion potential and a low potential for lateral spreading during large seismic events. Hazards associated with expansive soils would be reduced and managed consistent with the City adopted regulations and policies, in combination with state building regulations. Development of the project site would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project site is located within an urban area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (No Impact)]**

4.6.2.2 Erosion Impacts *(Checklist Question #2)*

Ground disturbance would be required for demolition of the existing building and surface parking lot, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until the construction is completed.

The City's National Pollutant Discharge Elimination Systems (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.

- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.

- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

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

4.6.2.3 Existing Geology Issues Affecting the Project – Compliance with General Plan Policies

Based upon the December 2015 California Supreme Court BIA vs. BAAQMD decision, the issues of environmental conditions affecting a project are no longer required under CEQA, but are included below to inform the planning process as to how the project complies with relevant local policies/regulations that protect sensitive land uses from existing hazards.

The policies of the *Envision San José 2040 General Plan* have been adopted for the purpose of avoiding or mitigating environment effects resulting from planned development within the City. Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Pursuant to the *Downtown Strategy 2000 FEIR*, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[15] shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the California Building Code and all City policies and ordinances. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

The soils in the project area contain weak soils with moderate to very high expansion potential. The project site has a moderate susceptibility to liquefaction and very strong ground shaking during an earthquake.

The project applicant would be required to submit a design-specific geotechnical report, prior to the issuance of building permits. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California. The General Plan FEIR concluded that adherence to the California Building Code would reduce seismic related impacts and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous conditions on the site.

[15] The analysis must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California." CDMG Special Publication 117. 1997.

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

4.6.3 Conclusion

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

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

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Regulatory Background

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.1 State of California

Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006

California Assembly Bill (AB) 32, the California Global Warming Solutions Act, was signed into law in September 2006. AB 32 requires California to reduce its total GHG emissions to 1990 levels by 2020, which represents about a 30 percent decrease from current levels. In September 2007, the Air Resources Board approved a list of Discrete Early Actions to reduce GHG emissions which includes maximizing energy efficient building and appliance standards, pursuing additional efficiency efforts, and pursuing comparable investment in energy efficiency by all retail providers of electricity in California (including both investor-owned and publicly-owned utilities).

State of California Executive Order S-3-05

Prior to adoption of AB 32, Governor Arnold Schwarzenegger signed Executive Order S-3-05, which established GHG emission reduction targets, created the Climate Action Team and directed the Secretary of CalEPA to coordinate with other state agencies to meet the emission reduction targets. The Executive Order S-03-05 requires statewide reductions in GHG emissions to 80 percent below 1990 by the year 2050.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, builds on AB 32 by requiring California Air Resources Board (CARB) to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035. Metropolitan planning organizations (for the Bay Area, the Metropolitan Transportation Commission in partnership with the Association of Bay Area Governments) would be required to create Sustainable Community Strategies (SCS) to meet the target emissions reductions as part of the Regional Transportation Plan for that region. The SCS is a mechanism for more effectively linking a land use pattern and a transportation system together to make travel more efficient and communities more livable. The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035.

Executive Order B-30-15

On April 29, 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15, setting a new interim statewide greenhouse gas emission reduction target. The purpose of establishing the interim target is to ensure California meets its previously established target of reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050, as set forth in Executive Order S-3-05 in 2005. Under Executive Order B-30-15, the interim target is to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030.

As a part of this effort, the California Air Resources Board was required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. The California Air Resources Board initiated a public process in the summer of 2015 to update the State's Climate Change Scoping Plan. The updated Scoping Plan will provide a framework for achieving the 2030 target and will be completed and adopted by the Air Resources Board in 2016.

This Executive Order also calls for the California Natural Resources Agency to update the State of California's climate adaption strategy, *Safeguarding California*, every three years. The Safeguarding California plan will identify vulnerabilities to climate change by region and sector, including water, energy, transportation, public health, agriculture, emergency services, forestry, biodiversity and habitat, and ocean and coastal resources. It also will identify actions needed to reduce risks to residents, property, communities, and natural systems from the vulnerabilities. A lead agency or group of agencies will be identified to lead adaptation efforts in each sector. Overall, the Natural Resources Agency will be responsible for ensuring that the provisions in the State's climate adaption strategy are fully implemented and state agencies must take climate change impacts into account in their planning decisions, including for all infrastructure projects.

4.7.1.2 Regional and Local Plans

2010 Bay Area Clean Plan

The Bay Area 2010 Clean Air Plan (2010 CAP) provides an updated comprehensive plan to improved Bay Area air quality and protect public health, taking into account future growth projections to 2035. The *Bay Area 2010 Clean Air Plan* (2010 CAP) addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants, reducing exposure of sensitive receptors to TACs, and reducing greenhouse gas (GHG) emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is determined by its consistency with the CAP.

BAAQMD CEQA Guidelines

BAAQMD identifies sources of information on potential thresholds of significance and mitigation strategies for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

In jurisdictions where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative greenhouse gas emission impacts to a less than significant level. The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

City of San José Municipal Code

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

- Green Building Regulations for Private Development (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The City of San José has adopted localized policies to regulate GHG emissions. The *Envision 2040 General Plan* includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies GHG reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary.

4.7.1.3 Applicable GHG Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. These policies are also described within the City's GHG Reduction Strategy.

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

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy

performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-5.1: Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

Policy TR-2.18: Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.7.2 Setting

4.7.2.1 Existing On-Site GHG Emissions

The project site is currently developed with a bus station and a small commercial building. GHG emissions are generated by daily vehicle trips to and from the project site. Emissions are also generated by the production of electricity required for lighting, heating, and cooling of the buildings.

4.7.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐	1-4
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒	☐	1-4

4.7.2.1 Greenhouse Gas Emissions Impacts *(Checklist Question #1)*

Construction Emissions

The proposed mixed-use development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Because construction would be temporary and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Operation

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the City's GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy (such as the proposed project) would have a less than significant impact related to GHG emissions. The project's conformance with the GHG Reduction Strategy is further described in the following section. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.2.2 Consistency with the San José Greenhouse Gas Reduction Strategy
(Checklist Questions #1 and 2)

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

New development located near transit and containing a mix of uses that promote walkability and bicycle transport may reduce GHG emissions from mobile sources by approximately 10 percent. The project proposes high density residential with ground floor retail, which would facilitate neighborhood vitality and transit ridership.

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

Consistency with the San José Greenhouse Gas Reduction Strategy

The General Plan contains goals and policies adopted for the purpose of reducing GHG emissions, which center around five strategies: energy, waste, water, transportation, and carbon sequestration. These goals and policies are also discussed within the City's GHG Reduction Strategy. Some measures are considered mandatory for all proposed development projects, while others are voluntary. Voluntary measures can be incorporated as mitigation measures for projects at the discretion of the City.

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

The proposed project's consistency with the relevant mandatory GHG reduction criteria is detailed below.

<u>Mandatory Criteria</u>

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)

2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
   - Solar Site Orientation
   - Site Design
   - Architectural Design
   - Construction Techniques
   - Consistency with City Green Building Ordinance and Policies
   - Consistency with GHGRS Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures
   - Consistency with Zoning Ordinance
   - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7

4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;

5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;

6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and

7. Limit drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The proposed project is consistent with the General Plan land use designation for the site. The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and CALGreen requirements. The proposed development would be designed to achieve minimum LEED certification consistent with San José Council Policy 6-32.

Given the proximity to transit and the inclusion of green building measures, the project would be consistent with mandatory criteria 1 and 2 described above. While the project would result in the demolition of a historic building, mitigation has been identified that would allow the building materials to be salvaged for reuse. As a result, the project would be consistent with criteria 4. Criteria 5 is not applicable to the proposed project because the project is not an energy-intensive use. Criteria 6 and 7 are not applicable because the project is not considered a large employer and would have no vehicle serving uses.

The General Plan FEIR concluded that the City's projected GHG emissions would be below the average carbon efficiency standard necessary to meet statewide 2020 goals as established by AB 32. The proposed project is consistent with the GHG Reduction Strategy and General Plan goals and policies intended to reduce GHG emissions and as would result in a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.3 Conclusion

Development of the proposed project will incorporate applicable policies of the City's adopted GHG Reduction Strategy and, therefore, would have a less than significant GHG impact, consistent with the findings of the *San Jose 2040 General Plan FEIR*. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on Phase I Environmental Site Assessment prepared by *Strata Environmental* in December 2013. A copy of the report is provided in Appendix E.

4.8.1 Overview

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

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

4.8.2 Setting

4.8.2.1 Historical Uses of the Project Site

The project site is currently developed with a bus station, a large surface parking lot, and a small commercial building. The first level of the bus station was used by Greyhound for passenger terminal activities which include ticket sales and administrative offices, passenger waiting and loading areas, baggage services, and Greyhound Package Express shipping services. A former small maintenance shop was located in the southeast corner of the first floor. The second floor contains an employee training room, an air conditioning and natural gas furnace equipment room, and passenger restrooms.

Based on available records, the project site was developed with a lumber planing mill and lumber supply company, three small residences, and what appears from the records to be a Chinese laundry from the early 1880's to approximately 1915. Between 1915 and the early 1930's, the site was still occupied by the planing mill and laundry, and also included a feed stable and livestock corral, a horse shoeing business, a print shop, and a small hotel (the extant building at the northeast corner of the project site). Sometime in the early 1930's the site was mostly cleared, aside from the hotel. The remainder of the site was vacant until 1936.

By 1936, the land was used as an auto sales yard, a machine shop, and a livestock corral. These uses remained on-site until the late 1950's when the Greyhound Bus Station was constructed.

4.8.2.2 Historic Uses of the Surrounding Land Uses

The properties on the north side of Post Street included single family residences, a stable and blacksmithing business, a carriage and wagon manufacturing company (dating back to 1884) and, by 1940, a retail auto parts store and several automobile maintenance shops.

The property on the east side of South San Pedro Street dating back to 1884 included a carriage manufacturer, hotel, tenement house, cutlery sharpening business, Chinese rooming house, liquor store, furniture showroom, and a priest's residence. By 1915, the properties were occupied by Market Street Theater, a furniture and agricultural storage warehouse, and Studebaker garage/auto repair facility. By 1969, the properties were redeveloped as a shopping mall and office/parking complex. Currently the site is occupied by multiple office buildings and a parking structure.

The properties to the south were originally developed as a Catholic Church and later by the R. C. School and Exhibition Hall. The properties were later occupied by numerous commercial facilities include a carriage shop, a paint shop, automotive repair facilities, a print shop, and a carpentry shop. Further west and south of the site were a French laundry and a gas station which both operated into the 1960s.

The properties to the west of South Almaden Avenue (formerly Orchard Street) were residential properties in 1884 and by 1915, the properties were redeveloped to more commercial and industrial uses. By 1950, the Pacific Telephone & Telegraph (now AT&T) facility expanded to take up the entire city block.

4.8.2.3 On-Site Sources of Contamination

The project site is identified in the following databases: Historical Registered Underground Storage Tanks (HIST UST), Historical Leaking Underground Storage Tanks (HIST LUST), SWEEPS UST, State and Tribal Leaking Underground Storage Tank Lists (LUST), Historical Cortese (HIST CORTESE), and Environmental Data Resource (EDR) US Historical Cleaners. A 15,000-gallon underground storage tank (UST) was installed by Greyhound in 1968 to store diesel for bus refueling. By 1990, the UST and product piping were removed. Initial testing results indicated a potential release into the soil beneath a product distribution line. Based on information obtained from the Regional Water Quality Control Board (RWQCB) Geotracker System, the LUST case was closed in January 1992 with no additional assessment work required.

The historical fire insurance maps and city street directories indicated a small structure identified as Sing Lee, located at 85 South San Pedro Street, as an EDR Exclusive US Historical Cleaner Site. The Sing Lee building was located at the southeast corner of the project site (now part of the Greyhound parking lot) between 1891 and the late 1920's. A Chinese laundry may have operated from this building during that time; however, there is no information confirming that the structure operated as a dry cleaner. The former potential dry cleaner was not assessed in the Phase I as a Recognized Environmental Concern (REC).

Asbestos Containing Materials

The on-site buildings were constructed in 1933 and 1957. Due to the age of the building, asbestos-containing materials (ACMs) are likely present on-site. Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes.

Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and transite siding made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material.

ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight. Use of friable asbestos products was banned in 1978.

Lead-Based Paint

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

No information regarding the use of lead-based paint was identified on-site; however, given the age of the existing buildings, lead-based paint is likely present on-site.

4.8.2.4 Off-Site Sources of Contamination

The Phase I ESA identified previously documented and current known hazardous materials locations within a one-eighth mile radius of the project site. Nine businesses which historically or currently use and/or store small quantities of hazardous materials were listed within the one-eighth mile radius. Table 4.8-1 lists the location, site, and a description of known releases within the study area.

Table 4.8-1: Hazardous Materials Releases Within 1/8 Mile Radius of Project Site	
Site Location	**Site Description**
Costere MME French Laundry 166 W. San Fernando Street <1/8 mile southeast Cross gradient	Operated from 1915 until approximately 1960. No releases or violations reported.
Arrow Transmissions 155 W. San Fernando Street Immediately south of the property line Cross gradient	No releases or violations documented.
Vickie Carpet and Rug Cleaning 95 S. Almaden Avenue/249 W. San Fernando Street One block west of the project site Up gradient	Operated from 1915 until sometime after 1950. No releases or violations reported but contamination detected through on-site investigations of release associated with AT&T facility. Contamination restricted to soils on the property, did not migrate off-site. (see discussion below)
AT&T 95 S. Almaden Avenue One block west of the project site Up gradient	Two releases of petroleum hydrocarbons over a 20 year period. Contamination plumes in the groundwater are restricted to the AT&T site.
Estensen Motor Service 189 W. San Fernando Street Immediately south of the property line Up gradient	Gasoline service station from 1935 to 1940 with underground tanks. No releases documented.
Morgan A H 150 W. San Fernando Street Immediately south of the property line Cross gradient	Auto repair facility from 1930-1960. No releases documented.
36 S. Almaden Avenue <1/8 mile north Cross gradient	Automobile repair from prior to 1950 to present. No releases documented
27 S. San Pedro Street <1/8 mile north Down gradient	Chinese laundry from 1910 to 1950. No releases documented
SJ Batinovich 25 S. San Pedro Street <1/8 mile north Down gradient	Automobile repair from 1945 until 1960. No releases documented

The AT&T property to the west of the project site has been impacted by releases of petroleum hydrocarbons. In 1992, five 10,000-gallon USTs containing diesel and all associated piping were removed from the south-central portion of the AT&T property. Soil samples collected during the UST removal contained elevated concentrations of petroleum hydrocarbons. Three new 20,000-gallon USTs were subsequently installed approximately 90 feet to the north of the original UST pit. By 1995, six monitoring wells were installed on-site to monitor the groundwater contamination and a year later, petroleum free product was observed in two monitoring wells. Groundwater monitoring

and free product recovery continued through 2001 when a corrective action plan (CAP) was approved for the site by the County of Santa Clara Department of Environmental Health (SCSDEH) and the San Francisco Bay RWQCB. In 2008, another CAP was submitted to the RWQCB recommending the removal of remaining soil contamination on-site through excavation; however, it does not appear that the petroleum-impacted soil was removed.

A second release of petroleum hydrocarbons on the AT&T property occurred in 2010 when approximately 1,300 gallons of diesel was pumped into a day tank on the top floor of the AT&T building and overflowed through a vent pipe onto the roof of the facility. The diesel migrated down the roof drains and pooled at the curb and street along W. San Fernando Street. A portion of the diesel entered the storm drain inlet and discharged into the Guadalupe River. Soil and groundwater impacts from the 2010 diesel release are still being investigated by AT&T. While groundwater monitoring shows that the AT&T site is up-gradient with respect to the Greyhound site, results from AT&T monitoring wells have not shown elevated concentrations of petroleum hydrocarbons to date. A 2013 investigation of the AT&T property concluded that based on the age of the on-site petroleum releases, the low permeability of underlying soils, the heavy-end nature of the majority of the contaminants, and low overall groundwater gradient, the contaminant plumes on the AT&T property are stable and unlikely to migrate off-site.

Given the case status, groundwater flow direction, and/or distance of the off-site facilities in relation to the project site, no off-site sources of significant environmental concern to the subject property were identified.

4.8.2.5 Other Hazards

Airports

Norman Y. Mineta San José International Airport is located approximately 1.8 miles from the project site. Based on the Airport Comprehensive Land Use Plan, the project site is located within the Norman Y. Mineta San José International Airport Influence Area (AIA) but is outside the defined safety zone. The project is not located in the vicinity of a private airstrip.

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

At a proposed maximum building heights of 242 feet for the north tower and ~~of~~ 252 feet for the south tower, the project is required to be filed for review by the Federal Aviation Administration (FAA) for airspace safety review.

Wildfire Hazards

The proposed project is located in a highly urbanized area that is not subject to wildland fires.

4.8.2.6 Applicable Hazards and Hazardous Materials Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

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

Policy TR-14.3: For development in the vicinity of airports, take into consideration the 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.

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

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

4.8.3 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐	1-4,12
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐	1-4,12
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐	1-4,12
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	1-4,12

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1-4
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1-4
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	1-4
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the *San Jose 2040 General Plan FEIR*, the proposed project would result in less than significant hazards and hazardous materials impacts, as described below.

4.8.4 Hazards and Hazardous Materials Impacts

4.8.4.1 Soil and Groundwater Contamination Impacts
(Checklist Questions #1-4)

Based on the Phase I ESA, there was a previous release of diesel on-site from a 15,000-gallon UST used for bus refueling. The UST and product piping were later removed and initial testing indicated potential soil contamination. In 1992, the LUST case was closed. A small structure located on 85 S. San Pedro Street was listed as an EDR Exclusive US Historical Cleaner Site; however, it is not confirmed if the structure operated as a dry cleaner and no contamination related to that business has been documented.

The Phase I determined that the adjoining AT&T property located west of the project site has been impacted by releases of petroleum hydrocarbons. Based on data from groundwater monitoring wells,

as well as the age of the on-site petroleum releases, the low permeability of underlying soils, the heavy-end nature of the majority of the contaminants, and low overall groundwater gradient, the contaminant plumes on the AT&T property are stable and have not migrated to the project site.

Based on the available data, the project site may have some localized residual soil contamination. The General Plan FEIR concluded that new development and redevelopment allowed under the proposed General Plan could occur in areas with soil or groundwater contamination; however, implementation of existing policies and regulations would substantially reduce hazards to the people and/or the environment. Therefore, the project would not exacerbate an existing soil or groundwater contamination source and would not impact persons or properties off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.2 Asbestos-Containing Materials and Lead-Based Paint Impacts

ACM was observed within the Greyhound building on floor tile, ceiling tile, thermal system insulation on piping, boiler insulation and gaskets, roof drain gaskets, cove base adhesive, spray-on textured ceiling materials, sound-absorbent wall tiles in the administrative office area, and wall board and joint compound. When the building is demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos.

No information regarding the use of lead-based paint was identified on-site; however, if used (likely due to the age of the building), lead concentrations may remain in on-site soil. If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. If the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. It will be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately.

Demolition of the existing structures on the project site could expose construction workers or occupants on adjacent buildings to harmful levels of ACMs or lead.

Standard Permit Conditions

The project is required to conform to the following regulatory programs and to implement the following measures to reduce impacts due to the presence of ACMs and/or lead-based paint:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will

be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

The *San Jose 2040 General Plan FEIR* concluded that conformance with regulatory requirements will result in a less than significant impact from ACMs and Lead. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.3 Dewatering During Construction *(Checklist Question #4)*

Development of the proposed project would require site excavation and grading since the project proposes three levels of below-grade parking. Based on data from a nearby project site, the estimated groundwater depth is approximately 18-24 feet bgs. It is reasonable to assume that excavation to a depth of 41 feet bgs would result in exposure of the shallow groundwater aquifer. There is no evidence to suggest that the shallow groundwater on-site has contaminants that exceed regulatory thresholds.

The short-term discharge of water produced from construction dewatering to the sanitary sewer is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB.

Dewatering during construction is not anticipated to create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.4 Other Hazards Impacts *(Checklist Questions#3,5-8)*

Schools

The proposed project is not located within one-quarter mile of an existing school. The proposed project would not use or store hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Airport Operations

Pursuant to federal regulations (FAR Part 77) and City General Plan policies, the two proposed high-rise towers must be submitted to the FAA for airspace safety review and issued "Determinations of No Hazard" prior to City development permit approval. Any conditions set forth in the FAA

determinations will be incorporated into the City development permit as required conditions of approval.
The project site is also located within the Airport Influence Area defined by the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan (CLUP) for San Jose International, but not within a CLUP-defined airport safety zone. The CLUP sets forth development height restrictions at the applicable FAA-defined "obstruction surface", which for this site is a level surface of 212 feet above mean sea level (approximately 120-125 feet above ground level), unless the FAA has issued a Determination of No Hazard allowing a higher building elevation.

Compliance with these federal regulations and City and CLUP policies will ensure that the proposed project would not impact airspace safety. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Emergency Response Plans

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

Wildland Fires

The project site is in a developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire. Therefore, implementation of the proposed project would not expose future site users or the proposed building to wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.4.5 Existing Hazardous Materials Conditions Affecting the Project – Compliance with General Plan Policies

Based upon the December 2015 CA Supreme Court BIA vs BAAQMD decision, the issues of environmental conditions affecting a project is no longer required under CEQA, but is included below to inform the planning process as to how the project complies with relevant local policies/regulations that protect sensitive land uses from existing hazards.

The policies of the City of San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan Policy EC-7.2 requires the identification of existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination are required to be designed to avoid adverse human health or environmental risk, in conformance with regional, State and Federal laws, regulations, guidelines and standards. Based on available records, the project site may have some localized soil contamination from previous business operations on-site.

Standard Permit Conditions

The following measures are required to be implemented as conditions of project approval to reduce identified human health and environmental hazards to future users:

- Prior to the issuance of grading permits, shallow soil samples shall be taken to determine if contaminates from previous operations are located on-site in concentrations above established construction worker and residential environmental screening levels. The soil sampling plan must be reviewed and approved by the Director of Planning, Building and Code Enforcement and the Environmental Service Department's Environmental Compliance Officer prior to initiation of work.

- If contaminated soils are found in concentrations above established thresholds for worker safety and/or residential thresholds, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling impacted soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water Quality Control Board, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage groundwater that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of grading permits, a copy of the SMP must be approved by the Santa Clara County Department of Environmental Health, the City's Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department's Environmental Compliance Officer.

With implementation of the required measures, the proposed project would not pose a safety risk to future site users consistent with Policy EC-7.2.

4.8.4 Conclusion

The proposed project would result in a less than significant hazards and hazardous materials impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone X and Flood Zone D. Flood Zone X is defined as areas of 0.2 percent annual chance flood, areas with one percent chance of annual flood with average depths of less than one foot or with drainage areas less than one square mile, and areas protected by levees from one percent annual flood. Flood Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D.

4.9.1.2 Dam Failure

Based on the Santa Clara Valley Water District (SCVWD) dam failure inundation hazard maps, the project site is within the Andersen Dam and the Lexington Dam failure inundation zone.[16,17]

4.9.1.3 Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[18] The site is located on the nearly flat valley floor topography and is not subject to the risk of mudflows.

4.9.1.2 Storm Drainage System

The City of San José owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works. The lines that serve the project site drain into Guadalupe River. Guadalupe River flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, 100 percent of the project site is covered with impervious surfaces. There is an existing 15-inch storm drain line along Post Street, which connects to a 10-inch line along S. San Pedro Street.

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[16]Santa Clara Valley Water District. *Lexington Reservoir 2009 Flood Inundation Maps. 2009.* <http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx> Accessed February 12, 2016.
[17]Santa Clara Valley Water District. *Anderson Dam EAP 2009 Flood Inundation Maps. 2009.* <http://www.valleywater.org/uploadedFiles/Services/CleanReliableWater/WhereDoesYourWaterComeFrom/Reservoirs/Anderson_Dam/Anderson%20Inundation%20Maps%202009.pdf?n=6912> Accessed February 12, 2016.
[18] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* <http://quake.abag.ca.gov/tsunamis>. Accessed April 12, 2016.

4.9.1.3 Water Quality

As stated above, stormwater from the project site drains into the Guadalupe River. The water quality of Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA)[19], the Guadalupe River is currently listed on the California 303(d)[20] list and the Total Maximum Daily Load (TMDL) high priority schedule for mercury.[21] A TMDL for mercury was established in 2010.

4.9.1.4 Groundwater

Data from a nearby project site estimated groundwater to be approximately 18-24 feet bgs.[22] Groundwater levels would fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site is mostly comprised of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

4.9.1.5 Water Quality Regulatory Background

Nonpoint Source Pollution Program

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

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

The NPDES General Permit for Construction Activity requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

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[19] United States Environmental Protection Agency. *California 303(d) Listed Waters.* http://iaspub.epa.gov/tmdl_waters10/attains_impaired_waters.impaired_waters_list?p_state=CA&p_cycle=2012 Accessed April 28, 2016.

[20] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.

[21] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

[22] State Water Resources Control Board. *Geotracker database.* Accessed February 17, 2016. <http://geotracker.waterboards.ca.gov/view_documents_all.asp?global_id=T0608501640&doc_id=5843331>

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed in accordance with the requirements of the 1986 San Francisco Bay Basin Water Quality Control Plan, for the purpose of reducing water pollution associated with urban stormwater runoff. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Federal Environmental Protection Agency develop NPDES application requirements for storm water runoff.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area to use site design and source control measures and numerically-sized Low Impact Development (LID) stormwater treatment measures in accordance with the strategies set forth in the policy.

The policy also requires special land use categories, which are defined as uncovered parking areas (standalone or part of another use), restaurants, auto service facilities and retail gasoline outlets that create or replace 5,000 square feet or more of impervious surface area to use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in the policy.

The policy also allows certain projects that are located within special districts or priority development areas in transit oriented locations within the City to utilize LID treatment reduction credits (Special Projects). These Special Projects may use alternatives to the exclusive use of LID measures for the treatment of all or a portion of a project's runoff. Project's need to demonstrate, through a narrative discussion, the limiting factors of the site and the reasons why the project would not be able to implement 100 percent LID measures on the site. The allowed LID reduction credits would also be to the extent to which a project qualifies for LID treatment reduction credits in accordance with the approved Special Projects provisions of the Municipal Regional Stormwater Permit.

Hydromodification

The Municipal Regional Stormwater NPDES Permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks.

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface and are located in sub-watersheds or catchment areas that area less than 65 percent impervious to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[23]

4.9.1.6 Applicable Hydrology and Water Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

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

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

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

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

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

[23] Santa Clara Valley Urban Runoff Pollution Prevention Program. http://www.scvurppp-w2k.com/hmp_maps.htm Accessed February 17, 2016.

4.9.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	☐	1-4
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	☐	1-4
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☐	☒	☐	1-4
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	☐	1-4
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	☐	1-4
6. Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	☐	1-4,13
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	☐	1-4,13
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	☐	1-4
10. Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1-4

4.9.2.1 Water Quality Impacts *(Checklist Questions #1 and 6)*

Construction Impacts

The proposed project would disturb 75,623 square feet of land area which is above the one acre threshold. Construction of the proposed project would require compliance with the NPDES General Permit for Construction Activities.

Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), an Erosion Control Plan must be submitted to the Director of Public Works for review and approval. The Erosion Control Plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to the City's requirements, the following measures, based on RWQCB recommendations, have been included in the project as standard permit conditions to reduce potential construction-related water quality impacts:

Standard Permit Conditions

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

- Earthmoving or other dust-producing activities would be suspended during high winds.

- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.

- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).

- Vegetation in disturbed areas would be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project would include the specific measures and actions identified above, and would be required by the City to comply with the regulatory programs, the project would have a less than significant construction-related water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

Under existing conditions, the project site is 100 percent impervious. Upon completion of the proposed development, the project would be approximately 93 percent impervious. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater NPDES permit.

The MRP requires all of the post-construction stormwater runoff to be treated by numerically sized Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The project qualifies as a Special Project (Category C- Transit Oriented Development) and currently proposes a bio-retention planter on the amenity deck area to treat 10 percent of the project site's runoff from the tower roofs and amenity deck. The remainder of the runoff, from approximately 90 percent of the project site, is proposed to drain to a media filter in the garage. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes why and how the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.2 Groundwater Impacts

The project site is currently 100 percent paved and does not contribute to recharging of the groundwater aquifers used as water supply. This condition would not change once development is complete. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The proposed residential development would include three levels of below-grade parking to a depth of approximately 41 feet. Groundwater is estimated to be approximately 18-24 feet bgs. Based on this data, the proposed development could interfere with the shallow groundwater aquifer but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers. It is anticipated that dewatering would be required during project construction.

In accordance with City policies, the following standard permit conditions will be implemented as part of the project:

Standard Permit Conditions

Construction Period

- As the project is regulated by the statewide Construction General Permit, it will be subject to the requirements of that permit related to construction-period pumped groundwater discharges.

Post- Construction

- The project shall be designed so that the below-grade parking garage will withstand hydrostatic groundwater pressure intrusions and will not need to pump groundwater on a post-construction basis. If this is infeasible then the project can implement groundwater pumping in conformance with applicable permits.

- Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or stormwater treatment feature that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer. Discharge to the sanitary sewer will require review by the City's Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City's Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data

collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San Jose.

- Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San Jose with the Building Permit application submittal.

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

4.9.2.3 Drainage Pattern Impacts *(Checklist Questions #3)*

The proposed project would not substantially alter the existing drainage pattern of the site or area through the altercation of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.4 Storm Drainage Impacts *(Checklist Questions #4 and 5)*

Table 4.9-1, below gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions.

Table 4.9-1: Pervious and Impervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (sf)	%	Project/Post-Construction (sf)	%	Difference (sf)	%
Impervious						
Building Footprint	25,264	33	67,261	89	+41,997	+56
Hardscape	50,359	67	3,282	4	-47,077	-63
Subtotal	75,623	100	70,543	93	-5,080	-7
Pervious						
Pavement and Landscaping	0	0	5,080	7	+5,080	+7
Total	75,623	100	75,623	100		

Under existing conditions, 75,623 square feet (100 percent) of the project site is covered with impervious surfaces. Under project conditions, the project site would be approximately 93 percent (70,543 square feet) impervious. Implementation of the project would result in a seven percent decrease in impervious surfaces which would result in a slight decrease in stormwater runoff.

The *Downtown Strategy 2000 FEIR* concluded that with the proposed changes in land use, full buildout of the *Downtown Strategy 2000* plan would result in an overall net decrease in impermeable surfaces. Furthermore, the General Plan FEIR concluded that although new development and

redevelopment allowed under the General Plan may result in an increase in impervious surfaces, implementation of applicable City policies and existing regulations would substantially reduce drainage hazards. As a result, implementation of the proposed project would have a less than significant impact on the existing storm drainage system**. [Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.5 Seiches, Tsunamis, and Mudflows *(Checklist Question #10)*

As discussed in Section 4.9.1.3 above, there are no bodies of water near the project site that would affect the project area in the event of a seiche or tsunami. The project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.6 Existing Flooding Conditions Affecting the Project *(Checklist Questions #4 and 7-9)*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. flooding) affecting a proposed project, which are addressed below.

Based on the FEMA flood insurance rate maps the project site is outside the 100-year floodplain for the Guadalupe River and would not expose people or structures to significant flood hazards in compliance with City policies.

The project site is located within the Anderson and Lexington Reservoirs dam failure inundation areas. The California Division of Safety of Dams (DSOD) is responsible for inspecting dams on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. As part of its comprehensive dam safety program, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Anderson and Lexington. The *San José 2040 General Plan FEIR* concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death.

4.9.3 Conclusion

Implementation of the proposed project would have a less than significant hydrology impact. **(Less Than Significant Impact)**

4.10 LAND USE

4.10.1 Setting

The project site is currently developed with a Greyhound Bus Station and associated parking lot, and a small commercial building. The site is located in the downtown core of San Jose and is surrounded by a mix of office, retail, commercial, and residential land uses.

4.10.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Physically divide an established community?	☐	☐	☐	☒	☐	1-4
2. 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?	☐	☐	☐	☒	☐	1-4
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	☐	1-4

4.10.4 Conclusion

As proposed, the project would demolish the existing buildings and parking lot and construct a high density mixed-use building with two residential towers and ground floor retail. The consistency of the proposed land use with the City's General Plan and other major development studies is evaluated in the EIR. No further analysis will be provided in this Initial Study.

4.11 MINERAL RESOURCES

4.11.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources.

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

4.11.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	☐	1-4
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the *Downtown Strategy 2000 FEIR* and the General Plan FPEIR, the proposed project would have no impact on mineral resources impacts, as described in the discussion that follows.

4.11.2.1 Impacts to Mineral Resources

The physical distance between the project site and the Communications Hill area is approximately 3.9 miles. Implementation of the project would not result in impacts to known mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.11.3 Conclusion

The project would not result in a significant impact from the loss of availability of a known mineral resource. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE

This discussion is based in part on a Noise and Vibration Assessment completed by *Illingworth & Rodkin, Inc.* in August 2016. A copy of this report is provided in Appendix F.

4.12.1 Setting

4.12.1.1 Background Information

Noise is typically defined as unwanted sound and is subjective due to varying tolerances. Acceptable levels of noise also vary from land use to land use. In any one location, the noise level will vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

Sound levels are usually measured in decibels (dB) with dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called "A" weighting, and the dB level so measured is call the A-weighted sound level (dBA).

Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq}. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01}, L_{10}, L_{50}, and L_{90}, are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period.

Sound level meters can accurately measure environmental noise levels to within about plus or minus one dBA. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Day/Night Average Sound Level, *DNL*, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM. DNL is equivalent to the Community Noise Equivalent Level (CNEL) which is the average sound level over a 24-hour period.

The most widespread and continual sources of noise in San José are transportation and transportation-related facilities. Freeways, local arterials, the Norman Y. Mineta San José International Airport, railroads, and Light Rail Transit are all major contributors to noise in downtown San José.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typically, hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

Background Information – Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 4.12-1 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.

Table 4.12-1: Effects of Vibration

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

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

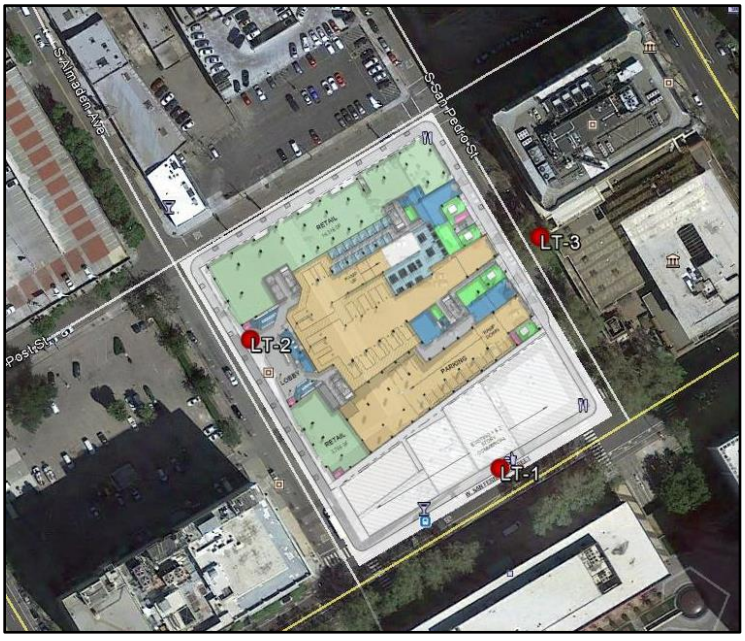
Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, etc. The rattling sound can give rise to exaggerated vibration complaints, even though there is little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of the physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels such as people in an urban environment may tolerate higher vibration levels.

Structural damage can be classified as cosmetic, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structure damage to a building. Construction-induced vibration that can be detrimental to a building is very rare and has only been observed in instances where the structure in a high state of disrepair and the construction activities occur immediately adjacent to the structure.

4.12.1.2 Existing Noise Conditions



The existing noise environment at the project site results primarily from vehicular traffic on surrounding streets, aircraft flyovers from the Norman Y. Mineta San José International Airport, and operations at the project site. Because the bus station has been recently closed, current operations on-site are limited to restaurant at the northeast corner of the project site which has an outdoor seating area.

To quantify the existing noise environment, a noise monitoring survey was completed from April 28 to May 3, 2016. The monitoring survey included three long-term (LT-1 – LT-3) noise measurements. Table 4.12-2 gives a summary of the acoustical locations and measurements. The noise monitoring locations are shown in the adjacent figure.

According to the City's current and projected noise contours for San José International Airport, the project site is exposed to aircraft noise levels of less than 65 dB CNEL, the minimum level at which aircraft noise would be considered a significant impact under State and Federal guidelines.

Table 4.12-2: Existing Long Term Noise Measurements

Measurement	Location	Noise Level (dBA)		
		Day	Night	DNL
LT-1	161 West San Fernando Street, approximately 30 feet from the centerline of West San Fernando Street.	60-79	54-72	71-73
LT-2	S. Almaden Avenue, approximately 115 feet south of Post Street and 30 feet east of the S. Almaden Avenue centerline.	60-71	55-68	68-70
LT-3	Halfway between Post Street and West San Fernando Street, approximately 20 east of the centerline of San Pedro Street.	61-81	56-75	72-77

Sensitive Receptors

The nearest noise sensitive receptors to the project site are the residences on the east side of S. San Pedro Street, approximately 250 feet from the project site. The other surrounding buildings are retail/commercial and office and are not considered sensitive land uses.

4.12.1.3 Applicable Noise Standards and Policies

2013 California Building Code, Title 24, Part 2

The current California Building Code (CBC) does not place limits on interior noise levels attributable to exterior environmental noise sources. The July 1, 2015 Supplement to the 2013 CBC corrects this omission, reinstating limits on interior noise levels attributable to exterior environmental noise sources which had been contained in all prior versions of the CBC dating back to 1974. In keeping with the provisions of the 2015 supplement, this report considers interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA L_{dn} in any habitable room for new dwellings other than detached single-family dwellings.

General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The City's noise and land use compatibility guidelines are shown in Table 4.12-3, below, which apply to all areas of the City except for the environs of the Mineta San Jose International Airport, the downtown core, and along major roadways.

Table 4.12-3: Land Use Compatibility Guidelines for Noise in San José (GP Table EC-1)

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

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

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

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

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

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use

noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.3: Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code Title 20 (Zoning Ordinance), construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Regulatory Background - Vibration

City of San José General Plan

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

4.12.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐	1-4, 15
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	1-4, 15
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1-4, 15
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1-4, 15
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1-4
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1-4

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site (refer to *Section 4.12.1.4*), a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan policy EC-1.1).

In conformance with the Downtown Strategy 2000 FEIR and General Plan FPEIR, the project would be required to be constructed according to with General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would be less than significant, consistent with the Downtown Strategy 2000 FEIR and General Plan FPEIR.

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

City of San José Standards

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

Construction Noise

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

Operational Noise

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

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 mm/sec (0.5 inches/sec), PPV for

buildings structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sounds but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

4.12.3 Noise Impacts

Similar to the site development evaluated in the Downtown Strategy 2000 FEIR and General Plan FPEIR, the proposed project would result in less than significant noise and vibration impacts, as described below.

4.12.3.1 *Noise Impacts from the Project (Checklist Questions #1, 3, and 4)*

Project Generated Traffic Noise Impacts

As discussed in Section 3.16, *Transportation*, the project would generate 4,966 net new daily trips. This volume of traffic would not be sufficient to double existing traffic volumes and substantially increase noise levels (by three dBA DNL or more) in the immediate project area. With implementation of the proposed project, noise volumes in the project area would increase by 1.0 dBA due to increased traffic volumes. Therefore, the project will have a less than significant long-term noise impact on the nearby residential land uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Operational Noise Impacts

The Downtown Strategy 2000 FEIR concluded that proposed development could result in long-term noise impacts from mechanical equipment and other on-site sources (air conditioning or other mechanical ventilation equipment, delivery loading docks or areas, emergency generators, etc.), which could emanate beyond the site boundaries. The proposed project is a mixed use development consisting of residential, office, and retail uses and it will include various mechanical equipment such as air conditions, exhaust fans, pool equipment, etc., that could increase ambient noise levels in the immediate project vicinity.

At this time, the exact location and type of mechanical equipment is unknown. The most substantial noise generating equipment would likely be large exhaust fans and air conditioning units. Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at receiving noise-sensitive land uses.

Truck deliveries for the commercial uses on the project site have potential to generate noise. Typical noise levels generated by loading and unloading of truck deliveries would be similar to noise levels generated by existing truck movements on local roadways and by similar activities at surrounding uses. The nearest noise-sensitive receptors are located to the west of the project site, opposite South Almaden Avenue. Since the loading/unloading zones would be located along South San Pedro Street, away from the noise-sensitive receptors, these deliveries would not result in a significant impact.

Consistent with the Downtown Strategy 2000 FEIR and in accordance with the General Plan FPEIR, the proposed project will be required as a condition of project approval to implement the following measure:

Standard Permit Condition

- A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the city's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study will be incorporated in the project prior to issuance of a building permit.

With implementation of the standard permit condition, the project would have a less than significant operational noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

The proposed project would be constructed over 24 months beginning in April 2017. Noise levels are estimated to exceed 70 dBA Leq at each of the nearby commercial land uses and would exceed 60 dBA Leq at the nearby residential land uses, resulting in an increase in ambient noise levels of up to five dBA Leq.

The General Plan PFEIR concluded that short-term construction noise would be mitigated by identified General Plan policies. Consistent with the Downtown Strategy 2000 FEIR, the Municipal Code, and in accordance with the General Plan PFEIR, particularly Policy EC-1.7, the proposed project will be required by conditions of project approval to implement the following measures during all phases of construction on the project site:

Standard Permit Conditions

- Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Unnecessary idling of internal combustion engines should be strictly prohibited.

- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to

screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

- If pile driving is necessary, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.

- If pile driving is necessary, consider the use of "acoustical blankets" for receptors located within 100 feet of the site.

- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

Implementation of the above standard permit conditions would reduce construction noise levels, limit construction hours, and minimize disruption and annoyance. With the implementation of these conditions, and recognizing that noise generated by construction activities would occur over a temporary period, the temporary increase in ambient noise levels would be less than significant. Therefore, the project would have a less than significant construction noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The applicant proposes to extend construction hours beyond those stipulated in the conditions of approval (listed above) during a portion of the construction process. Specifically, the applicant is proposing to increase construction hours during such times as large quantities of concrete need to be poured during a single period. Other construction-related activities may also require an extension of the allowable construction hours. In accordance with General Plan Policy EC-1.7, the applicant would be required to have a construction noise logistics plan prepared by a qualified acoustical consultant that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints. The logistics plan would be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring

residents and other uses. In addition, the applicant would be required to obtain a permit from the City for construction activities that occur outside the standard construction hours. Therefore, the project would have a less than significant construction noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.3.2 *Groundborne Vibration Impacts (Checklist Question #2)*

Pile driving would generate the highest ground borne vibration levels (approximately 0.644 in/sec PPV at 25 feet). Other construction activities such as drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may also generate substantial vibration in the immediate site vicinity. Construction of the main building structure is not anticipate to be a source of substantial vibration and construction vibration would not be substantial for the majority of the construction schedule.

There are multiple historic and potentially historic buildings near the project site. The distance of the historic buildings (Sunol and Berger Buildings) nearest the project site, along the northern boundary, is approximately 60 feet from the project site. In addition, the Hatman & Normandin Block (14-16 S. Almaden Avenue) is located approximately 100 feet from the project site. The distance of the contemporary buildings near the project site, along the east and west boundaries, is approximately 75 feet from the project site, including the Market-Post Tower.

At these distances, vibration levels from construction equipment, other than pile driving, would generate vibration levels of 0.210 in/sec PPV or less. If pile driving were to be used as a method of construction, the upper range of impact pile driving would be 1.158 in/sec PPV and would exceed the City's threshold with levels greater than 0.25 in/sec PPV.

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction and a limit of 0.08 in/sec PPV shall be used for historic buildings. Pile driving would exceed the City's established vibration thresholds for conventional construction buildings. Construction activities, including but not limited to pile driving, would exceed the threshold for historic structures.

Impact NOI-1: Construction of the proposed project could expose nearby buildings to vibration levels in excess of City standards. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures are proposed as part of the project to reduce construction vibration impacts to a less than significant level.

MM NOI-1.1: Driving of piles will be prohibited. If piles are required for building construction, piles will be required to be drilled.

MM NOI-1.2: The use of vibration-generating construction equipment, such as impact compactors and larger dozers shall be prohibited within 60 feet of the Sunol (127-145 Post Street) and Berger Buildings (44 S. Almaden Avenue).

MM NOI 1-3: A Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be performed under the direction of a Historic Architect and a California licensed professional Structural Engineer. The Plan shall include the following tasks:

- Identification of the sensitivity of nearby structures to ground-borne vibration. Vibration limits shall be applied to all sensitive structures located within 200 feet of pile driving activities and 50 feet of other high vibration construction activities.

- Prior to demolition of the on-site buildings, a historical architect and a structural engineer shall undertake an existing condition study of the adjacent buildings to establish the baseline condition of the buildings prior to construction on the project site, including the location and extent of any visible existing cracks chipping, or flaking, especially to the character defining features of these buildings. For historic structures, the existing conditions study shall take the form of written descriptions and photographs, and shall include those physical characteristics of the resources that convey their historic significance and that justify their inclusion on, or eligibility for inclusion on, the California Register of Historical Resources and local register. The existing conditions study shall be reviewed and approved by the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement and maintained on file throughout the construction process.

- The Historic Architect and/or a qualified structural engineer shall make periodic site visits to monitor the condition of the existing buildings and provide detailed reports to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the City's Historic Preservation Officer noting any concerns as well as recommended corrective actions. Monitoring shall include the use of any instruments deemed necessary by the historic architect or structural engineer, such as crack gauges, if necessary per approval of nearby property owners, or reviewing vibration monitoring required by other construction monitoring processes required under the City's permit processes.

- For historic structures, the Historic Architect shall consult with a structural engineer if any problems with character-defining features are discovered. If, in the opinion of the Historic Architect, substantial adverse impacts related to construction activities are found during construction, the Historic Architect shall so inform the project applicant or applicant's designated representative responsible for construction activities. The project applicant shall respond

accordingly to the Historic Architect's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. The monitoring team shall prepare site visit reports and submit the reports to the City's Historic Preservation Officer, and obtain all required City permits for any corrective work.

- At a minimum, vibration monitoring shall be performed during pavement demolition, excavation, and pile driving activities (if required). Monitoring results may indicate the need for more or less intensive measures.

- If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.

- If damage does occur to any nearby historic structures, the Historic Architect shall document (e.g., with photographs and other appropriate means) the level of success in meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties.

- The project applicant shall ensure that if repairs occur, in the event of damage to nearby historic resource during construction, repair work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and such repair work shall restore the character defining features in a manner that does not affect their historic status.

- For non-historic structures, a post-construction survey shall be completed on structures where high vibration levels were documented or where complaints of damage have been made. Appropriate repairs shall be made based on the initial building surveys.

MM NOI-1.4: The project applicant shall designate a specific person responsible for registering and investigating claims of excessive vibration. The contact information shall be clearly posted on the construction site so as to be seen from all street frontages, and shall be posted at all times during the construction period.

[New Less Than Significant Impact with Mitigation (Less Than Significant With Mitigation)]

4.12.3.3 Existing Noise Conditions Affecting the Project *(Checklist Questions #1, 2, 5-6)*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed that CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. noise) affecting a proposed project, which are addressed below.

The policies of the City of San Jose 2040 General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering Federal, State and City noise standards and guidelines as a part of new development review. Within the City of San Jose, applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of the plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Future Exterior Noise Environment

Based on applicable noise standards and policies for the site, exterior noise levels at the proposed residential uses should not exceed 60 dBA DNL and interior day-night average noise levels cannot exceed 45 dBA DNL (General Plan Policy EC-1.1).

Existing noise sources generate noise levels of up to 77 dBA DNL at the ground level façades of the proposed building. Based on traffic data provided for the Diridon Station Area Plan, traffic noise levels are anticipated to increase by up to one dBA DNL along roadways serving the project site as a result of future redevelopment in the downtown area.[24] Additional peak hour trips generated by the project would result in an additional one dBA increase, for a total future noise increase of two dBA DNL.

Future noise levels are anticipated to be 73-75 dBA DNL at the ground level facade of the proposed building at a distance of 30 feet from the centerline of West San Fernando Street, 70-72 dBA DNL at a distance of 30 feet from the centerline of South Almaden Avenue, and 74-79 dBA DNL at a distance of 20 feet from the centerline of San Pedro Street.

[24] City of San José. *Diridon Station Area Plan Draft Program Environmental Impact Report.* SCH #2011092022. December 2013.

As proposed, the project would have a third floor pool deck and common open space area. Some of the residential units would also have balconies. Pursuant to General Plan Policy EC-1.1 private balconies in multi-family buildings are excluded from the City's noise standards and are not be discussed further.

The future exterior noise levels from traffic at the common terraces would range from 58 dBA DNL along South Almaden Avenue and 61 dBA DNL along South San Pedro Street. Traffic noise levels at the pool area would be below 55 dBA DNL. With aircraft flyovers, however, noise levels at the common outdoor areas would exceed 60 dBA DBL.

While noise on the project site is due, in part, to aircraft flyovers, General Plan Policy EC-1.1 only requires noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Consistent with the *Downtown Strategy 2000 FEIR* and in accordance with the *San Jose 2040 General Plan FEIR*, particularly Policy EC-1.1, the proposed project will be required by conditions of project approval to implement the following measure:

Standard Permit Conditions

- Shield common outdoor areas with buildings and parapet walls or other noise attenuation features/structures.

As a result, exterior noise levels at residential outdoor use areas would be consistent with General Plan Policy EC-1.1.

Future Interior Noise Environment

The California Building Code and the City of San José General Plan require that interior noise levels be maintained at 45 dBA DNL or less for residences. The exterior noise exposure would be up to 79 dBA DNL.

Interior noise levels would vary depending upon the design of the buildings (ratio of window area to wall area) and the selected construction materials and methods. For the proposed project, the interior noise levels with standard construction and windows open would be up to 64 dBA. With windows and doors closed, interior noise levels would be up to 59 dBA DNL. This would exceed the City's threshold for interior noise.

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

Standard Permit Condition

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all units so that windows can be kept closed to control noise.

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

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

4.12.3 Conclusion

With implementation of the proposed project mitigation and standard permit conditions, and conformance with General Plan policies, the project would have a less than significant noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to the California Department of Finance 2011-2015 census data estimates for year 2013, the City of San José had a total population of 986,575 persons.[25] As of 2013, the City of San José had approximately 306,727 households with an average of 3.16 persons per household.[26] The City's population is projected to reach 1,445,000 with 472,000 households by year 2040.[27]

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

The *Envision San José 2040 General Plan* job growth (470,000 new jobs by the end of Horizon 5) would require substantial residential development elsewhere in the region to provide adequate housing for future workers.

4.13.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐	1-4
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1-4
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1-4

[25] California Department of Finance. "E-4 Population Estimates for Cities, Counties, and the State, 2011-2015 with 2010 Census Benchmark". 2015. Accessed March 18, 2016. <http://www.dof.ca.gov/research/demographic/reports/estimates/e-4/2011-20/view.php>

[26] City of San José. "Fact Sheet: History & Geography". 2013. Accessed March 18, 2016. <http://www.sanjoseca.gov/DocumentCenter/View/780>

[27] Center for the Continuing Study of the California Economy, *Projections of Jobs, Populations, and Households for the City of San José*, August 2008. http://www.sanjoseca.gov/DocumentCenter/View/3326

4.13.2.1 Impacts to Population and Housing *(Checklist Questions #1-3)*

The project would demolish the existing bus station and commercial building, and construct two residential towers, ground floor retail, and a parking structure. The two residential towers would have a combined total of 781 residential units. Assuming 3.16 persons per household[28], the project would generate a maximum of 2,468 new residents in the City of San José.

The proposed 781 dwelling units would comprise a small portion of the 8,000 to 10,000 dwelling units already approved for the downtown area as well as the 120,000 new dwelling units planned for in the General Plan. While the project would increase housing within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same as Approved Project (Less Than Significant Impact)]**

The project site is currently developed with a bus station and a commercial building. The proposed project would not result in the displacement of people or necessitate the construction of housing elsewhere. **[Same as Approved Project (No Impact)]**

4.13.3 Conclusion

Implementation of the proposed project would not have a significant impact on population and housing. **[Same as Approved Project (Less Than Significant Impact)]**

[28] Ibid.

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 Fire Protection Services

Fire protection services for the project are provided by the San José Fire Department (SJFD). SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 1, located at 225 North Market Street, north of the project site. The distance between the project site and Station No. 1 is approximately 0.5 miles. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles.

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

4.14.1.2 Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD). The police station is located at 201 West Mission Street, approximately 1.25 miles north of the site.

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

4.14.1.3 Schools

The City of San José includes 22 public school districts that currently operate 222 public schools. The project site is located within the San José Unified School District (SJUSD). SJUSD has 27 elementary schools, six middle schools, and nine high schools in operation. The nearest elementary school to the project site is Horace Mann Elementary School located approximately 0.52 miles east of the project site. The nearest middle school is Peter Burnett Middle School located approximately 1.33 miles north of the project site. The nearest high school is San José High School located approximately 1.44 miles northeast of the project site.

4.14.1.4 Parks

The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José own approximately 187 neighborhood-serving parks and nine regional parks. The General Plan estimated a citywide population of 1,313,811 by 2035 which would increase the demand for park and recreational facilities and create a parkland deficit of 2,187.40 acres (including regional and local park lands). The *Downtown Strategy 2000* evaluated up to 10,000 additional dwelling units, which would result in an 87.5-acre deficiency of parkland.

The Envision San Jose 2040 General Plan has a service level goal of providing 3.5 acres of neighborhood/community serving park land per every 1,000 population (GP Policy PR-1.1) and 7.5

acres per 1,000 population of citywide/regional parkland (GP Policy PR-1-2) to help meet the demand for neighborhood and community parks generated by the development of new residential parcels. The Quimby Act (California Government Code §66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

The City of San José enacted the Parkland Dedication Ordinance (PDO)[29] in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)[30], which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

The closest parks to the project site are John P. McEnery Park and Plaza de Cesar Chavez Park located approximately 0.2 miles south and 0.3 miles southeast of the project site, respectively.

4.14.1.5 Libraries

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library System consists of one main library and 22 branch libraries. Residents of the downtown area are served by the Dr. Martin Luther King Jr. Library. The Dr. Martin Luther King Jr. Library is approximately 0.5 miles east of the project site.

4.14.1.6 Applicable Public Services Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to the project:

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

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

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

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

[29] City of San Jose Municipal Code Title 19.38
[30] City of San Jose Municipal Code Title 14.25

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

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

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

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

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

4.14.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project						
1. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
- Fire Protection?	☐	☐	☐	☒	☐	1-4
- Police Protection?	☐	☐	☐	☒	☐	1-4
- Schools?	☐	☐	☐	☒	☐	1-4
- Parks?	☐	☐	☐	☒	☐	1-4
- Other Public Facilities?	☐	☐	☐	☒	☐	1-4

4.14.2.1 Impacts to Public *(Checklist Question #1)*

Fire Protection Services

The *Downtown Strategy 2000 FPEIR* concluded that while the growth proposed in the downtown area of San José would result in an increase in demand for fire services, the increased population could not result in demand for services beyond the capabilities of the department.

The proposed residential development would increase the resident population of San José and the proposed ground floor retail would increase the total population during standard business hours, but may not permanently increase the resident population. The *San José 2040 General Plan FEIR* concluded that planned growth under the General Plan would result in an increase in calls for fire protection services. The increase in population may result in additional staffing and equipment to adequately serve the City's planned growth envisioned under the General Plan. The increased population would not result in demand for services beyond the capabilities of the department.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the *Envision San José 2040 General Plan* to avoid unsafe building conditions and promote public safety. The proposed development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Police Protection Services

The *Downtown Strategy 2000 FPEIR* concluded that while the growth proposed in the downtown area of San José would result in an increase in demand for police services, the increased population could not result in demand for services beyond the capabilities of the department.

The proposed residential development would increase the resident population of San José and the proposed ground floor retail would increase the total population during standard business hours, but may not permanently increase the resident population. The *San José 2040 General Plan FEIR* concluded that planned growth under the General Plan would increase the population of the City which would require an increase in police services to serve the larger population. The increased population would not result in demand for services beyond the capabilities of the department.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the *San José 2040 General Plan FEIR* to avoid unsafe building conditions and promote public safety. The proposed development would not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Schools

The General Plan anticipates approximately 11,079 new students to be generated in the SJUSD. The *Downtown Strategy 2000* estimated a maximum generation of 5,000 students in the SJUSD. Based

on the student generation rates for SJUSD[31,32], future residential development on-site would generate 109 new elementary school students, 46 middle school students, and 58 high school students in the school district. The General Plan includes specific policies to ensure that school services are maintained at adequate levels. The SJUSD has closed and/or leased sites that could be made available again to aid in accommodating students generated by the proposed development. It should be noted that while the district is over capacity, individual schools that would serve the project site are not, as show in Table 4.14-1 below.

Table 4.14-1: School Capacity and Enrollment

School	Current Capacity	Current Enrollment
Horace Mann Elementary School[33]	750	516
Peter Burnett Middle School[34]	928	877
San José High School[35]	1,421	1,034

The proposed project would not cause any of the schools to exceed their current capacity. In addition, the project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated in the General Plan and *Downtown Strategy 2000*. While the project would increase the number if students attending local schools, the *San José 2040 General Plan FEIR* concluded that implementation of applicable General Plan policies and programs and payment of impact fees would reduce impacts to local schools to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Parks

The proposed project would construct two residential towers with ground floor retail. The *Downtown Strategy 2000* would create up to 10,000 additional dwelling units, which would result in an 87.5-acre deficiency of parkland under the City's PDO.[36]

The residential portion of this project (781 units) would be required to dedicate approximately 5.483 acres of parkland, provide park impact in-lieu fees, provide public recreational improvements, or

[31] Multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students, and 0.074 high school students per unit.
[32] Student generation rates for San José Unified School District was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (March 1st, 2016).
[33] Capacity and enrollment data for Horace Mann Elementary School was derived from the Horace Mann Elementary School Accountability Report Card.
http://www.sarconline.org/SarcPdfs/Temp/43696666048599.pdf Accessed February 4th, 2016.
[34] Capacity data for Peter Burnett Middle School was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (February 8th, 2016). Enrollment data was derived from the Peter Burnett Middle School Accountability Report Card.
http://www.sarconline.org/SarcPdfs/Temp/43696666062103.pdf Accessed February 4th, 2016.
[35] Capacity data for San José High School was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (February 8th, 2016). Enrollment data was derived from the San José High School Accountability Report Card.
http://www.sarconline.org/SarcPdfs/Temp/43696664337200.pdf Accessed February 4th, 2016.
[36] 10,000 units x 2.5 persons per unit divided by 1,000 and multiplied by 3.5 acres per 1,000. Average number of persons per unit was estimated to be 2.5, based on Census 2000 data as presented on the City's website (www.ci.sanjose.ca.us/planning/ sjplan/data/Census_2000).

provide a combination of these per the PDO (SJMC 19.38). Compliance to the PDO (i.e. payment of park impact in-lieu fees) must be demonstrated prior to the issuance of Building Permits.

Because the 781 residential units proposed under this project have been accounted for in the *Downtown Strategy* 2000 and the project would comply with the PDO requirements, implementation of the proposed project would not adversely impact park facilities in the City. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Libraries

The Dr. Martin Luther King Junior Main Library is located on the corner of San Fernando and Fourth Streets in downtown San José. Development approved under the City's General Plan would increase the City's residential population to 1,313,811. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The *San José 2040 General Plan FEIR* concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The increased residents at the project site were analyzed as part of the City's General Plan and as part of the *Downtown Strategy 2000* and, as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to San José library facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3 Conclusion

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

4.15 RECREATION

4.15.1 Setting

The City of San José currently operates 187 neighborhood parks, 13 neighborhood community centers, nine regional parks, and over 57 miles of trails. The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. Amenities within the neighborhood parks can include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts.

The closest parks to the project site are John P. McEnery Park and Plaza de Cesar Chavez Park located approximately 0.2 miles south and 0.3 miles southeast of the project site, respectively. John P. McEnery Park is a 1.3-acre park with only passive open space. Plaza de Cesar Chavez is a 2.2-acre park that contains a picnic area, a children's water play feature, and restroom facilities.

4.15.1.1 Applicable Recreation Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to the project:

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

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

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

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

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

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

4.15.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒	☐	1-4
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐	1-4

4.15.2.1 Impacts to Recreational Facilities *(Checklist Questions #1 and 2)*

Implementation of the *Downtown Strategy 2000* would allow up to 10,000 new dwelling units, which would have a parkland obligation of 87.5 acres.[37] The 781 dwelling units proposed for this project was accounted for in the *Downtown Strategy 2000* and the *Downtown Strategy 2000 FEIR* concluded that the PDO would be satisfied in several ways including: dedication of land, payment of in-lieu fees, credit for improvement costs to parkland, and/or credit for qualifying private recreation amenities in the project. While the increased population would result in increased use of recreational facilities within the City, including local parks, trails, and community centers, these recreational facilities would be maintained and expanded through application of PDO/PIO fees in accordance with General Plan policies. Implementation of the project would not result in substantial physical deterioration or construction or expansion of recreational facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15.3 Conclusion

The project would not result in significant impacts to recreational facilities in the City of San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[37] 10,000 units x 2.5 persons per unit divided by 1,000 and multiplied by 3.5 acres per 1,000. Average number of persons per unit was estimated to be 2.5, based on Census 2000 data as presented on the City's website (www.ci.sanjose.ca.us/planning/ sjplan/data/Census_2000).

4.16 TRANSPORTATION

The following discussion is based upon the information contained within the traffic operations study prepared *by Hexagon Transportation Consultants, Inc.* in October 2016. This study is included in Appendix G.

4.16.1 Setting

The City certified the Downtown Strategy 2000 FEIR in June 2005 which included a comprehensive traffic analysis that addressed planned growth within the downtown core. There have not been any substantial modifications to the area transportation facilities since certification of the Downtown Strategy 2000 FEIR. While a comprehensive Transportation Impact Analysis is not required, a Traffic Operations Study has been prepared to identify potential operational issues associated with the proposed project.

4.16.1.1 *Existing Roadway Network*

Regional access to the project site is provided by State Route (SR) 87 and Interstate 280 (I-280). The regional roadways are described below.

SR 87 is a six-lane freeway (four mixed-flow lanes and two HOV lanes) a north-south roadway that begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101. Access to the project site from SR 87 is provided via interchanges at Julian Street/St. James Street, Santa Clara Street, Woz Way, and Auzerais Avenue/Delmas Avenue.

I-280 extends from US 101 in San José to I-80 in San Francisco. It is generally an east-west oriented eight-lane freeway in the vicinity of downtown San José. The section of I-280 just north of the Bascom Avenue over-crossing has six mixed-flow lanes and two HOV lanes. Access to the project site to and from I-280 is provided via ramps at First Street, Seventh Street, and Almaden Boulevard/Vine Street, as well as SR 87.

Local access to the project site is provided by Almaden Boulevard, Santa Clara Street, San Fernando Street, Almaden Avenue, San Pedro Street, and Post Street. The local roadways are described below.

Almaden Boulevard is a north-south, four-lane street that extends between St. John Street and Grant Street, just south of I-280. Almaden Boulevard provides access to and from the project site via Post Street and San Fernando Street.

Santa Clara Street is an east-west, four-lane roadway located north of the project site. Santa Clara Street provides direct access to the project site via San Pedro Street and Almaden Avenue.

San Fernando Street is generally an east-west, two-lane street that extends intermittently as East San Fernando Street from First Street to King Road in East San Jose and as W. San Fernando Street from First Street to Race Street. San Fernando Street provides access to the project site via Almaden Avenue and San Fernando Street.

Almaden Avenue is a north-south roadway that extends between San Fernando Street and St. James Street along the project site's western frontage. South of the project site, Almaden Avenue continues from Viola Avenue (just south of the San Jose Convention Center) southward to Alma Avenue, where it transitions into Almaden Expressway. Almaden Avenue is a two-lane street with on-street metered parking along both sides of the street and 25 mph speed limit between San Fernando Street and Santa Clara Street. Near the project frontage, there are loading zones provided for the existing Greyhound Bus Station. Access to the parking garage of a commercial building along the west side of Almaden Avenue is provided north of Post Street. The street width along the project frontage is approximately 50 feet. The street narrows, however, to 40 feet near its intersection with San Fernando Street and 40 feet between Post Street and Santa Clara Street.

San Pedro Street is a north-south roadway that extends intermittently as S. San Pedro Street between Basset Street and Santa Clara Street, and as N. San Pedro Street between Santa Clara Street and Bassett Street. San Pedro Street is a two-lane street with on-street metered parking along the west side of the street and 25 mph speed limit. San Pedro Street is generally 40 feet wide, though the street narrows to approximately 35 feet near its intersections with San Fernando Street and Santa Clara Street. Near the project frontage, the east side of San Pedro Street includes loading zones and an entrance/exit as well as a truck dock for the Market Post Tower building. North of Post Street, San Pedro Street provides access to two commercial buildings via several garage entrances/exits and truck docks.

Post Street is an east-west, two-lane street that extends between Almaden Boulevard and First Street. Post Street runs along the project's northern project site boundary, providing access to and from the site via Almaden Avenue and San Pedro Street.

4.16.1.2 *Existing Pedestrian and Bicycle Facilities*

Pedestrian facilities in the project area consist of sidewalks and crosswalks. All roadways in the project area have sidewalks and signalized crosswalks are located at the nearby signalized intersections. Crosswalks are also provided along all four legs of the unsignalized intersections along S. San Pedro Street at the eastern boundary of the site. There is no crosswalk at the east approach of the S. Almaden Avenue/W. San Fernando Street intersection. Overall the existing sidewalks have good connectivity and provide pedestrians with safe routes to the surrounding land uses.
The Guadalupe River Trail, located approximately 0.25 mile west of the project site, is an 11- mile continuous Class I bikeway extending from Curtner Avenue in the south to Alviso in the north. This trail can be accessed via sidewalks and dedicated bicycle lanes on W. San Fernando Street.

Class II bicycle facilities are provided along both sides of W. San Fernando Street, between Eleventh Street and Montgomery Street. Other bike lanes in the project area include the following:

- Woz Way, between San Carlos Street and Almaden Avenue
- Park Avenue, between Woz Way and Market Street, and west of Montgomery Street
- Almaden Boulevard, between Woz Way and Santa Clara Street
- Santa Clara Street, west of Almaden Boulevard
- Second Street, between San Salvador Street and Keyes Street
- Third Street, between Jackson Street and Humboldt Street
- Fourth Street, between Jackson Street and I-280

The City of San Jose has developed a public Bike Share system that allows users to rent and return bicycles at various locations. Bike Share and Zip Car locations are provided throughout the downtown area. The nearest bike share and Zip car locations are within walking distance, at the intersections of Almaden Boulevard/Santa Clara Street and Almaden Avenue/Santa Clara Street. Figure 4.16-1 shows existing bicycle facilities, including bike lanes, bike share locations, and zip car locations in the project area.

4.16.1.3 *Existing Transit Service*

Existing transit services to the study area are provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak.

Bus Service

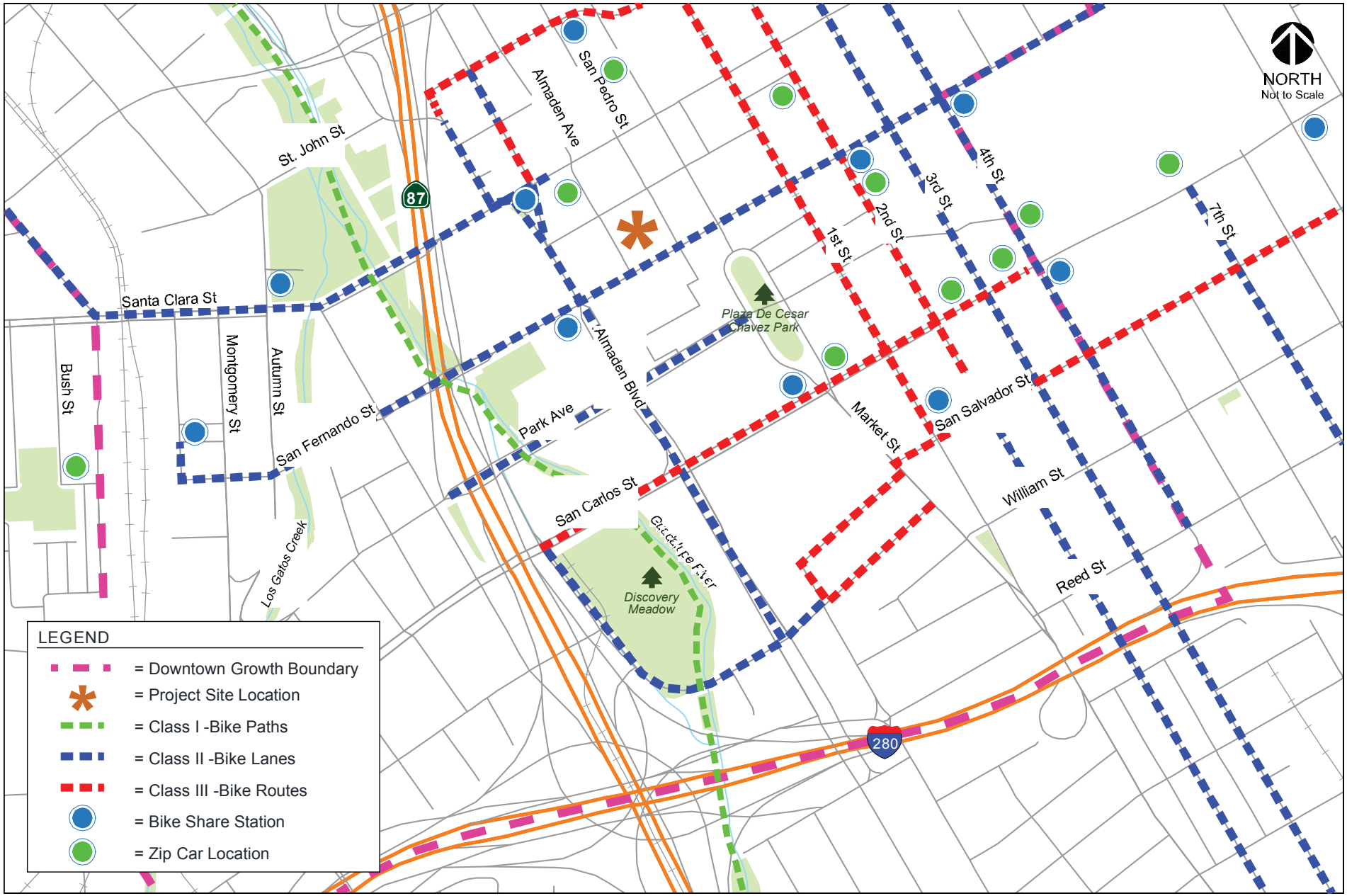
The project is occupied by a Greyhound Bus Station, but Greyhound operations have recently moved to the Diridon Station west of the site. From the Diridon Station, Greyhound provides bus transit service throughout the United States.

The downtown area is served by many local bus lines. The bus lines that operate within ¼ mile walking distance of the project site are listed in Table 4.16-1.

Table 4.16-1: Existing Bus Service Near the Project Site

Route	Route Description	Headway
Local 22	Palo Alto Transit Center to Eastridge Transit Center via El Camino Real	12 min
Local 63	Almaden Expressway and Camden Avenue to San Jose State University	30 min
Local 64	Almaden LRT Station to McKee and White via downtown San Jose	15 min
Commute 65	Kooser and Blossom Hill to Thirteenth and Heading	45-50 min
Local 66	Kaiser San Jose Medical Center to Dixon Landing Road (Milpitas)	15 min
Local 68	Gilroy Transit Center to San Jose Diridon Station	15-20 min
Local 72	Senter and Monterey to downtown San Jose	15 min
Local 73	Snell and Capitol Expressway to downtown San Jose	15 min
Local 81	San Jose State University to Moffett Field	25-30 min
Local 82	Westgate Mall to downtown San Jose	30 min
Express 168	Gilroy Transit Center to San Jose Diridon Station	30 min
Express 161	Fremont BART Station to San Jose Diridon Station	15 min
Limited 304	Santa Teresa LRT Station to Sunnyvale Transit Center	30 min
Limited 323	Downtown San Jose to De Anza College	15 min
Rapid 522	Palo Also Transit Center to Eastridge Transit Center	15 min
Hwy 17 Express 970	Downtown Santa Cruz/Scotts Valley to downtown San Jose	10-30 min

The VTA also provides a shuttle service within the downtown area. The downtown area shuttle (DASH) provides shuttle service from the San Jose Diridon Caltrain Station to San Jose State



Source: Hexagon Transportation Consultants, Inc., July 20, 2016.

BICYCLE FACILITIES

FIGURE 4.16-1

University, and the Paseo De San Antonio and Convention Center LRT Stations via San Fernando and San Carlos Streets.

VTA Light Rail Transit (LRT) Service

The VTA operates the 42.2-mile VTA light rail line system extending from south San Jose through downtown to the northern areas of San Jose, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24-hours a day with 15-minute headways during much of the day.

The Mountain View–Winchester and Alum Rock–Santa Teresa LRT lines operate within walking distance of the project site. The Santa Clara LRT stations are located approximately 0.25 miles east of the project site on First and Second Streets, between E. Santa Clara and E. San Fernando Streets. The San Jose Diridon Station is located along the Mountain View–Winchester LRT line and is served by Caltrain, ACE, and Amtrak.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. The project site is located less than 0.75 miles from the San Jose Diridon Station. Trains stop frequently at the Diridon station between 4:30 AM and 10:30 PM in the northbound direction, and between 6:28 AM and 1:34 AM in the southbound direction. Caltrain provides passenger train service seven days a week, and provides extended service to Morgan Hill and Gilroy during weekday commute hours.

Altamont Commuter Express Service

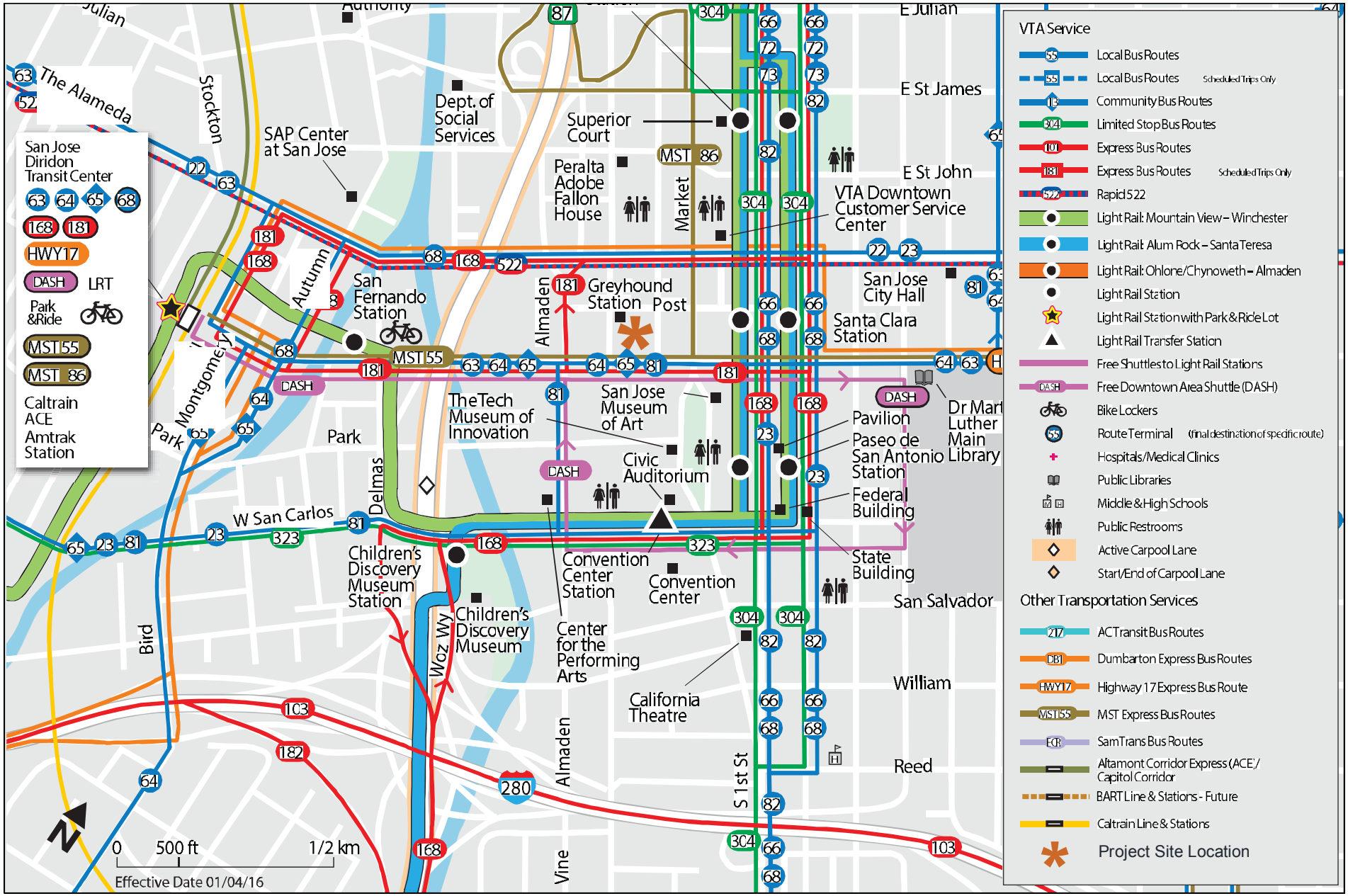
The Altamont Commuter Express (ACE) provides commuter rail service between Stockton, Tracy, Pleasanton, and San Jose during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon/evening with headways averaging 60 minutes.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

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San Jose, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San Jose Diridon Station eight times during the weekdays between approximately 7:38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during the weekdays between 6:40 AM and 7:15 PM.

The Coast Starlight trains provide daily passenger service between Los Angeles and Seattle. The southbound train stops at the San Jose Diridon Station at 9:55 AM and departs at 10:07 AM. The northbound Coast Starlight train stops at the Diridon Station at 8:11 PM and departs at 8:23 PM.

Figure 4.16-2 shows existing transit services in the project area.



Source: Hexagon Transportation Consultants, Inc., July 20, 2016.

TRANSIT SERVICES FIGURE 4.16-2

4.16.1.4 *Applicable Transportation Regulations and Policies*

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

Policy TR-1.1: Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

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

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

Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.

Policy CD-3.3: Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

4.16.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐	1-4,14
2. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐	1-4,14
3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐	1-4,14
5. Result in inadequate emergency access?	☐	☐	☐	☒	☐	1-4,14
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐	1-4,14

Similar to the site development evaluated in the Downtown Strategy 2000 FEIR and the General Plan FEIR, the proposed project would result in less than significant transportation impacts, as described in the following discussion.

4.16.2.1 *Trip Generation Estimates*

Traffic trips generated by the proposed project were estimated based on the San Jose TIA Handbook. No trip credits were taken for the existing land uses on the project site. A summary of the project trip generation estimates under existing conditions is shown in Table 4.16-2.

Table 4.16-2: Project Trip Generation Estimates

Land Use	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Residential	4,710	165	306	471	306	165	471
Internalization Reduction	---	-1	-3	-4	-6	-5	-11
Transit Reduction	-425	-15	-27	-42	-28	-14	-42
Retail	800	17	7	24	36	36	72
Internalization Reduction	-120	-3	-1	-4	-5	-6	-11
Pass-by Trips	---	---	---	---	-8	-8	-16
Net Project Trips	**4,966**	**163**	**282**	**445**	**295**	**168**	**463**

4.16.2.2 *Intersection Operations – Queuing (Checklist Questions #1-2)*

Operations at seven nearby intersections were evaluated under project conditions to assess whether the project would create a safety impact. From a CEQA standpoint, there are no thresholds specific to queuing. There is, however, a threshold which states that the project would have a significant impact if the project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). It is important to note that lengthening a left-turn queue does not, in itself, create a safety impact.

The following discussion evaluates projected queuing as the study intersections and identifies measures that could be employed to accommodate existing and projected queues. Queues are based on the 95th percentile. The study intersections include:

- Almaden Avenue and Santa Clara Street
- Almaden Avenue and Post Street
- Almaden Avenue and San Fernando Street
- San Pedro Street and Santa Clara Street
- San Pedro Street and Post Street
- San Pedro Street and San Fernando Street
- Almaden Avenue and San Fernando Street

The addition of project traffic would not result in left-turn queues in excess of existing lane storage capacity at five of the seven intersections. The San Pedro Street/Santa Clara Street westbound left-turn queues would exceed the existing turn lane capacity under existing plus project and background plus project conditions by one car (25 feet) in both the AM and PM Peak Hour. It is not feasible to extend the left-turn pocket because the lane backs up to the left-turn lane at Market Street/Santa Clara Street.

At the Almaden Avenue/San Fernando Street intersection, both the southbound and westbound left-turn queues would exceed the existing turn lane capacity under multiple scenarios. In the southbound direction, the queue is exceeded under existing and background conditions[38] in both the AM and PM Peak Hours. The project would add two cars in the AM Peak Hour and three cars in the PM Peak Hour under both existing plus project and background plus project conditions.

In the westbound direction, the queue is exceeded under existing and background conditions in the PM Peak Hour. The project would result in queues that exceed the lane capacity in both the AM and PM Peak Hours under existing plus project and background plus project conditions. Under existing plus project conditions, three cars would be added in the AM Peak Hour and two cars would be added in the PM Peak Hour. Under background plus project conditions, four cars would be added in the AM Peak Hour and two cars would be added in the PM Peak Hour.

The southbound left-turn lane could be extended an addition 150-200 feet (equivalent to six to eight cars) with the partial removal of the landscaped center median. Extending the westbound left-turn lane is not feasible due to right of way constraints.

[38] Background conditions are existing conditions plus trip volumes from approved but not yet constructed development projects.

The project is in proximity to major transit services and pedestrian and bicycle facilities that would provide for the use of multi-modal transit and reduce single-occupancy vehicle trips. It is expected that the traffic trips generated by the project would ultimately be less than estimated and operational deficiencies reduced as development and planned improvements within the downtown area are implemented. [**Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.3 *Site Access and Circulation* *(Checklist Question #4)*

Site Access

The project proposes two full-access driveways (in addition to two loading/truck driveways) along S. San Pedro Street. Access to the parking garage would be gated at the proposed driveways. Based on the site plan provided, the proposed driveways along S, San Pedro Street appear to be approximately 26 feet in width. This meets the City of San Jose Municipal Code standard. There are existing driveways along S. San Pedro Street across from the proposed project driveways.

The proposed residential component of the project is projected to generate approximately 149 inbound and 276 outbound trips during the AM peak hour and 272 inbound and 146 outbound trips during the PM peak hour. Assuming these trips would use the two garage entrances equally, a maximum of 136 trips would access each of the project driveways during the PM peak hour (only about 75 trips during the AM peak hour), representing two to three vehicles per minute at each project driveway. An automated entrance gate should have the ability to serve three vehicles per minute. Therefore, it is not anticipated that vehicle queues at the project garage entrances would hinder access, in particular since traffic volumes along this segment of San Pedro Street are relatively low.

It is recommended that the project driveways align as close as possible with the opposing driveways serving the Market Post Tower building (55 South Market Street) parking structure. The alignment of the proposed and existing opposing driveways would provide for a clear line of sight for drivers exiting and entering each driveway as well as reduce conflicting movements between the driveways.

The City typically requires parking garage entrances to be located at least 50 feet from the face of the curb in order to provide adequate stacking space for at least two inbound vehicles. This requirement may not always be achievable in the downtown area due to the zero setback requirements for buildings located in downtown. It is recommended, however, that the garage entrance gates be located a minimum of one car length back from the sidewalk (within the parking garage) on S. San Pedro Street to be able to accommodate one entering vehicle at the garage entrance gates without blocking the sidewalk. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Site Circulation

The City's standard width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. This allows sufficient room for vehicles to back out of parking spaces. Based on the site plan, the drive aisles on the ground level were measured to be approximately 26 feet wide, satisfying the City requirements. Drive aisle widths on each level of parking must meet the City's design requirements.

On-site vehicle circulation was reviewed for the project in accordance with generally accepted traffic engineering standards. As proposed, vehicles would enter the parking area via one of two project driveways from S. San Pedro Street. These driveways appear to provide access to separate parking areas: the northern driveway (driver closer to the San Pedro Street/Post Street intersection) would provide access to the above ground-level parking while the southern driveway would provide access to the below ground-level parking. Circulation through the garages appears to be efficient with two-way rectangular circulation aisles within at least the first level of parking.

No dead end aisles are shown on the plans. Dead-ends should be restricted to residents only and assigned parking should be implemented. With proper signage indicating the resident only parking restrictions, potential dead-end aisles and parking adjacent to walls would not impact internal circulation. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.4 *Emergency Vehicle Access (Checklist Question #5)*

The proposed building would be fully accessible from three street frontages. There would be no restrictions to emergency vehicles accessing the site. The final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.5 *Pedestrian, Bicycle, and Transit Facilities (Checklist Question #6)*

Bicycle and Pedestrian Facilities

The sidewalks in the project area have good connectivity and provide access to the project site from all nearby transit as well as jobs and services.

The project site is well served by various existing bicycle facilities including Class II bicycle lanes along San Fernando Street south of the project site. Additionally, the Guadalupe River Park Trail, a Class I pedestrian and bicycle trail, is accessible via San Fernando Street and Santa Clara Street, less than 0.25 miles from the project site. According to the San Jose Bike Plan 2020 Bikeway Network map, no additional bicycle facilities are planned in the study area.

Implementation of the proposed project would likely increase pedestrian and bicycle traffic in the immediate project area, but would not exceed the capacity of the existing facilities or preclude the construction of planned improvements. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Transit Facilities

The project is in close proximity to major transit services located along the surrounding roadways and would provide the opportunity for multi-modal travel to and from the project site. The nearby bicycle facilities along San Fernando Street provide access to major transit stations and provide for a balanced transportation system as outline in the Envision 2040 General Plan goals and policies. Implementation of the proposed project would not preclude the construction of planned transit

facilities and increased transit usage resulting from the project would not exceed the capacity of the existing system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.6 ***Airport Operations*** *(Checklist Question #3)*

Norman Y. Mineta San Jose International Airport is located approximately 1.8 miles from the project site. The project would be required to comply with the height restrictions established by the FAA and would not result in a change in air traffic patterns. Please refer to *Section 4.8,* for a complete discussion of the project's compliance with Federal aviation regulations. **[Same Impact as Approved Project (No Impact)]**

4.16.3 Conclusion

Implementation of the project will result in the same significant impacts to the transportation system as was previously identified in the *Downtown Strategy 2000 FEIR* and the *San Jose 2040 General Plan FEIR.* **[Same Impact as Approved Project (Significant Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 Water Services

Water service to the site is supplied by the San José Water Company. Due to the limited use of the project site, for the purposes of this analysis, it is assumed that there is no water usage currently on-site.

4.17.1.2 Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of domestic water use (assuming no internal recycling or reuse programs). Because the project site has no landscaping, however, it is assumed that total wastewater generation is equal to total water use.

Based on the General Plan FEIR, the City's average dry weather flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José/Santa Clara Regional Wastewater Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

4.17.1.3 Stormwater Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 0.24 mile from Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

Currently, 100 percent of the project site is impervious. There are existing storm drain lines along Post Street and South San Pedro Street that serve the site.

4.17.1.4 Solid Waste

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

4.17.1.5 Applicable Utilities and Service Systems Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José.

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

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

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

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

4.17.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐	1-4
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1-4
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1-4
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐	1-4
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1-4

Consistent with the Downtown Strategy 2000 FEIR and General Plan FPEIR, the project would result in less than significant utility and service systems impacts.

4.17.2.1 Water Supply *(Checklist Question #2 and 4)*

The proposed project would demolish the existing bus station and commercial building. The proposed development would use approximately 52,394 gpd of water.[39]

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

The proposed project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the *San José 2040 General Plan FEIR*. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.2 Sanitary Sewer Capacity *(Checklist Question #1,2, and 5)*

For the purposes of this analysis, it is assumed that the total wastewater generation would be equal to total water usage due to the minimal landscaping proposed on-site and the likely use of recycled water for irrigation. There are eight-inch sewer lines located in Almaden Avenue, Post Street, and San Pedro Street that currently serve and would continue to serve the project site.

[39] The project annual water usage was estimated by the project architect to be 19,123,920 gallons per year.

Based on a sanitary sewer hydraulic analysis prepared for the *San Jose 2040 General Plan FEIR*, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the General Plan would not exceed the City's allocated capacity at the Facility. The proposed project is consistent with the development assumptions in the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the Facility. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.3 Storm Drainage System *(Checklist Question #3)*

Under existing conditions, the project site is 100 percent impervious. Implementation of the project would decrease impervious surfaces by seven percent, or 5,080 square feet. The project would discharge to an existing 24-inch storm drain in Post Street and 12-inch storm drain in S. San Pedro Street. The existing storm drainage lines have sufficient capacity to support the current conditions on-site. As a result, the overall decrease in stormwater runoff resulting from the project would not impact the existing storm drainage system.

Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. The project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater NPDES permit. In order to meet these requirements, the proposed development would include a bioretention area and media filter. Runoff from the tower roofs and amenity deck area would be piped to a bioretention planter on the amenity deck. Runoff that cannot be directed to the bioretention would be treated with media filters in the garage.

The Downtown Strategy 2000 FEIR, and General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. The project would be required to comply with the Municipal Regional Stormwater NPDES permit requirements. Runoff from the project site would not exceed the capacity of local drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.4 Solid Waste *(Checklist Question #6 and 7)*

The new development on-site would generate approximately 3,804 pounds per day of solid waste.

The *Envision San José 2040 General Plan* concluded that estimated increases in solid waste generation from developments would be avoided through implementation of the City's Zero Waste Strategic Plan. The proposed General Plan policies, existing regulations and programs would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.3 Conclusion

The project would not result in any utility or service facility exceeding current capacity or require the construction of new infrastructure or service facilities to support the project. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

		New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐	☐	1-15
2.	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒	☐	1-15
3.	Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒	☐	1-15
4.	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1-15

4.18.1 Findings

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on aesthetics, agriculture and forest lands, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, mineral resources, population and housing, public services, recreation, transportation, and utilities. The project is consistent with the General Plan and, therefore, the cumulative impacts to these resources have been

addressed in the *San Jose 2040 General Plan FEIR* and accounted for in the City's long-term infrastructure planning.

The project would have a temporary air quality, biological resources, and noise/vibration impacts during construction associated with equipment operation, nesting birds, and a long-term loss of five mature trees. With the implementation of the mitigation measures the identified construction impacts would be mitigated to a less than significant level. The City has standard tree replacement measures required of all new development projects. Because the nature of the identified impacts are temporary and/or will be mitigated, the proposed project would not have a cumulatively considerable impact on biological resources in the project area.

The proposed project would not generate regional criteria pollutants or GHG emissions greater than what was assumed for planned growth in the Downtown Strategy and the General Plan. While the project would contribute to the overall emissions identified in the *Downtown Strategy PFEIR* and the *San Jose 2040 General Plan FEIR*, the project's contribution would not be cumulatively considerable.

Due to the size and location of the proposed development, the project may have significant impacts and cumulatively considerable impacts to land use and cultural resources.

4.18.2 Conclusion

Implementation of the proposed project could result in significant unavoidable impacts, impacts that are cumulatively considerable, or directly or indirectly cause substantial adverse effects on human beings. A Focused EIR has been prepared to address these impacts in the subject areas of Land Use, Cultural Resources, and Energy. **(Potentially Significant Impact)**

Checklist Sources

1. CEQA Guidelines – Environmental Thresholds (professional judgement and expertise and review of project plans).
2. City of San José. *San José General Plan and City Code.*
3. City of San José. General Plan EIR
4. City of San José. Downtown Strategy 2000 FEIR
5. California Department of Natural Resources, *Santa Clara County Important Farmland 2012* Map.
6. U.S. Department of Agriculture. *Web Soil Survey*. 2016.
7. Illingworth & Rodkin – Air Quality Analysis. August 2016.
8. David J. Powers & Associates, Inc. – Tree Survey. February 2016.
9. Carey & Company – Historic Resource Evaluation. December 2016.
10. Holman & Associates – Archaeological Literature Review. June 2016.
11. Soil Survey Staff – Custom Soil Resource Report. 2016.
12. Strata Environmental – Phase I Environmental Site Assessment. December 2013.
13. Federal Emergency Management Agency, Flood Insurance Rate Map, Community Panel #06085C0234H. May 18, 2009.
14. Hexagon Transportation Consultants – Traffic Operations Study. October 2016.
15. Illingworth & Rodkin – Noise Analysis. August 2016.

All references utilized in this Initial Study are listed in Section 9.0 of the SEIR.