# Draft Environmental Impact Report

# Greyhound Residential Project

File No. SP16-021 & T16-017
SCH No. 1991093009

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

*Planning, Building and Code Enforcement*
HARRY FREITAS, DIRECTOR

# NOTICE OF AVAILABILITY OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) AND PUBLIC COMMENT PERIOD

A Draft Supplemental Environmental Impact Report (SEIR) for the **Greyhound Residential Project** is available for public review and comment. The proposed project includes the demolition of the existing on-site structures (a one-story commercial building and the Greyhound bus station) and the construction of two residential towers with ground floor retail. The residential towers would include a north tower (23 stories) and a south tower (24 stories), for a total of 781 residential units. Approximately 20,000 square feet of ground floor retail would be located within the towers along South Almaden Avenue, Post Street, and San Pedro Street. Retail space would be located on the first floor and residential parking would be located two levels of above-grade, on the first and second floor, and four levels of below-grade. **Location:** The project site is located on South Almaden Avenue between West San Fernando Street and Post Street in downtown San José, at 70 South Almaden Avenue (APNs: 259-40-012, -013, -014, -015 and -016). **File Nos.:** SP16-021 & T16-017. **Council District**: 3.

The proposed project will have a potentially significant environmental effect with regard to cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of toxic sites.

The Draft SEIR and documents referenced in the Draft SEIR are available for review online at the City of San José's "Active EIRs" website at www.sanjoseca.gov/activeeirs and are also available at the following locations:

Department of Planning, Building,
and Code Enforcement
200 East Santa Clara St., 3rd Floor
San José, CA 95113
(408) 535-3555

Dr. MLK Jr. Main Library
150 E. San Fernando St.,
San José, CA 95112
(408) 277-4822

The public review period for this Draft SEIR begins on **December 22, 2016** and ends on **February 15, 2017**. Written comments must be received at the Planning Department by **5:00 p.m. on February 15, 2017**, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Krinjal Mathur in the Department of Planning, Building and Code Enforcement via e-mail at krinjal.mathur@sanjoseca.gov, by phone at (408) 535-7874, or by regular mail at the mailing address listed for the Department of Planning, Building and Code Enforcement, above (send to the attention of Krinjal Mathur). Please reference the above file number in your written comment letter.

Following the close of the public review period, the Director of Planning, Building and Code Enforcement will prepare a Final Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the SEIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the SEIR during the public review period.

Harry Freitas, Director
Planning, Building and Code Enforcement

Deputy

12/15/16
Date

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# ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| CEQA | California Environmental Quality Act |
| CRHR | California Register of Historic Resources |
| EIR | Environmental Impact Report |
| IS | Initial Study |
| MND | Mitigated Negative Declaration |
| NRHP | National Register of Historic Places |

# SUMMARY

The project proposes construction of two residential towers (23 and 24 stories) with up to 781 total dwelling units and approximately 20,000 square feet of ground floor retail. The following is a summary of the significant impacts and mitigation measures addressed within this EIR. The project description and full discussion of impacts and mitigation measures can be found in of this EIR.

| Significant Impacts | Mitigation Measures |
|---|---|
| **Cultural Resources – Section 3.1** | |
| Excavation of the site could result in the loss of all as yet unknown subsurface historic resources on the project site. | **MM CUL 1-1:** The project applicant shall be required to complete subsurface testing to determine the extent of possible resources on-site. Subsurface testing shall be completed by a qualified archaeologist. Based on the findings of the subsurface testing, an archaeological resources treatment plan shall be prepared by a qualified archaeologist.<br><br>**MM CUL 1-2:** The project applicant shall ensure implementation of the archaeological resources treatment plan, by a qualified archaeologist, prior to the issuance of demolition and grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Treatment Plan shall be prepared and submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement. The treatment plan shall contain, at a minimum:<br><br>• Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.<br>• Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).<br>• Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).<br>• Detailed field strategy used to record, recover, or avoid the finds and address research goals.<br>• Analytical methods.<br>• Report structure and outline of document contents.<br>• Disposition of the artifacts.<br>• Appendices: all site records, correspondence, and consultation with Native Americans, etc.<br><br>**MM CUL 1-3:** All historic-era features identified during exploration shall be evaluated based on the California Register of Historical Resources criteria consistent with the archaeological treatment plan. After completion of the field work, all artifacts shall be cataloged and the appropriate forms shall be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University. |

| Significant Impacts | Mitigation Measures |
|---|---|
| **Cultural Resources – Section 3.1** | |
| | **MM CUL 1-4:** In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding he disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.<br><br>Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.<br><br>**MM CUL 1-5:** In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendants (MLD), the descendants shall make recommendations regarding proper burial (including the treatment of grave goods), which shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.<br><br>The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.<br><br>**Less Than Significant Impact With Mitigation** |

| Significant Impacts | Mitigation Measures |
|---|---|
| **Cultural Resources – Section 3.1** | |
| Demolition of the Greyhound Bus Station, a Candidate City Landmark eligible structure, would be a significant impact. | **MM CUL-2.1:** Documentation: The structure shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:<br><br>1. Drawings – Prepare sketch floor plans.<br>2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.<br>3. Written Data – HABS written documentation in short form.<br><br>A architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.<br><br>The documentation shall be filed with the San Jose Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed by the City of San Jose.<br><br>Relocation by a Third Party: The structure shall be advertised for relocation by a third party. The project applicant shall be required to advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to City staff that this condition has been met prior to the issuance of demolition permits.<br><br>If a third party does agree to relocate the structure the following measures must be followed:<br><br>1. The City's Director of Planning, Building and Code Enforcement, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building.<br><br>2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic |

significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.

4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties.* In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long term preservation of these features.

   Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and that all character-defining features were preserved. The project applicant shall submit a memo report to the City's Historic Preservation Officer documenting the relocation.

Salvage: If no third party relocates the structure, the structure shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Supervising Environmental Planner and Historic Preservation Officer of Planning, Building and Code Enforcement. The project applicant must provide evidence to Supervising Environmental Planner of the Planning, Building and Code Enforcement that this condition has been met prior to the issuance of demolition permits.

**MM CUL-2.2:** A qualified historian shall create a permanent interpretive program, exhibit, or display of the history of the property including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. The display shall be placed in a suitable publicly accessible location on the project site. The final design of the display shall be determined in coordination with the City's Historic Preservation Officer.

**Significant Unavoidable Impact**

| Significant Impacts | Mitigation Measures |
|---|---|
| **Air Quality – Section 4.3 (Appendix A)** | |
| Construction activities associated with the proposed project would expose children near the project site to temporary TAC emissions in excess of acceptable risk thresholds. | **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.<br><br>**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.<br><br>**Less Than Significant Impact With Mitigation** |
| **Biological Resources – Section 4.4 (Appendix A)** | |
| Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. | **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.<br><br>**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.<br><br>**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.<br><br>**Less Than Significant Impact With Mitigation** |

| Significant Impacts | Mitigation Measures |
|---|---|
| **Noise – Section 4.12 (Appendix A)** | |
| Construction of the proposed project could expose nearby buildings to vibration levels in excess of City standards. | **MM NOI-1.1:** Driving of piles will be prohibited. If piles are required for building construction, piles will be required to be drilled.<br><br>**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).<br><br>**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:<br><br>• 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.<br><br>• 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.<br><br>• 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.

| Significant Impacts | Mitigation Measures |
|---|---|
| **Noise – Section 4.12 (Appendix A)** | |
| | **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.<br><br>**Less Than Significant Impact With Mitigation** |

### Cumulative Impacts

The proposed project would have the following significant cumulative impacts:

- Demolition of the Greyhound building would result in a cumulatively considerable impact to locally historic mid-century buildings in San Jose

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

### Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain the most basic objectives of the project but would avoid or substantially lessen many of the significant environmental effects of the project." Below is a summary of the project alternatives. A full analysis of the project alternatives is provided in **Error! Reference source not found.**of this EIR.

## A. NO PROJECT ALTERNATIVE

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

### *No Project – No Development Alternative*

The No Project – No Development Alternative would retain the small commercial building and the bus station. Greyhound operations have already been relocated to the Diridon Station west of the project site. The building is now vacant and it is unlikely that a new bus line would take over operation of the site. The building may, however, be refurbished for a new use such as warehouse, shipping, or some other light industrial business. If the project site were to remain as is there would be no new impacts. The project site is, however, currently designated *Downtown* in the 2040 General Plan. The site is currently underutilized based on the current land use designation.

***No Project – Downtown Redevelopment Alternative***

As noted above, the existing commercial building on-site is not wholly inconsistent with the current land use designation. The current Downtown Commercial zoning is consistent with the General Plan land use designation. Because the current development is not consistent with the General Plan and is located within the downtown core, which is intended to accommodate future growth, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future consistent with the land use designation and development standards set by the zoning code.

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

## B. DESIGN ALTERNATIVE

Under the Design Alternative, the bus station (a locally significant historic building) would be retained on-site and utilized for the retail component of the project. The overhang and the building sign at the back of the building would be removed so the residential towers could be constructed on the remaining approximately two-thirds of the site. There would be no setback between the bus station and the new building. Automobile access to the site would continue to be from S. San Pedro Street. Another access could be provided from S. Almaden Avenue from the existing driveway along the southern boundary of the site.

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

## Areas of Known Controversy

There are no known areas of controversy regarding the project.

# SECTION 1.0 INTRODUCTION

## 1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San Jose, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) for the Greyhound Residential project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

## 1.2 EIR PROCESS

### 1.2.1 Overview

On June 21, 2005, the City Council certified the Downtown Strategy 2000 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 SEIR has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the *Downtown Strategy 2000* and the *San Jose 2040 General Plan.*

### 1.2.2 Purpose of the SEIR

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

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

As such, the City has prepared a Supplemental EIR for the proposed project.

In accordance with CEQA, this SEIR provides objective information regarding the environmental consequences of the proposed project to the decisions makers who will be considering and reviewing

the proposed project. The CEQA Guidelines contain the following general information of the role of an SEIR and its contents:

> **§15121(a) – Informational Document.** An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.
>
> **§15145 – Speculation.** If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.
>
> **§15151 – Standards for Adequacy of an EIR.** An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

### 1.2.3 Tiering From Previous EIRs

In accordance with CEQA, this SEIR will be a Supplemental EIR to the *Downtown Strategy Plan FEIR* and tier from both the *San Jose 2040 General Plan FEIR* and the *Downtown Strategy 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.

### 1.2.4 Focusing the SEIR

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

As stated above, the analysis in the Initial Study determined that the only environmental resources affected by the proposed project would be land use, cultural resources, noise, and air quality. All other impacts from the proposed project would be less than significant and are not addressed further in this SEIR.

### 1.2.5 Noticing and Availability

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

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

# SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

## 2.1 PROJECT LOCATION

The 1.74-acre project site is comprised of five parcels (APNs 259-40-012, 013, 014, 015, and 016) located on the block defined by S. Almaden Avenue, W. San Fernando Street, S. San Pedro Street, and Post Street in the downtown core of the City of San José. (see Figures 2.1-1, 2.1-2, and 2.1-3)

## 2.2 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 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.

### 2.2.1 Proposed Development

As proposed, the project would demolish both buildings currently on-site 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 2.2-1 and 2.2-2).

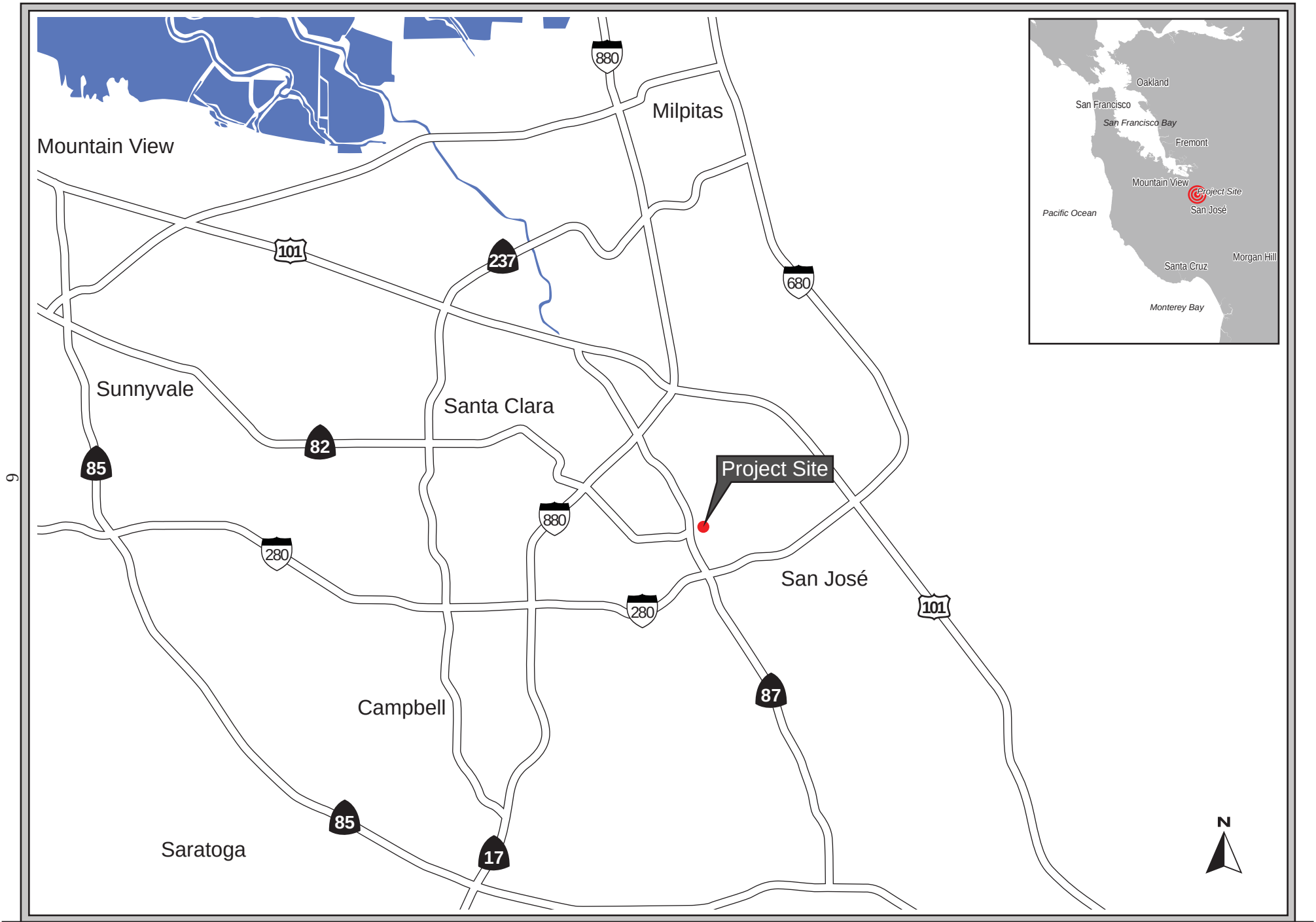
### 2.2.2 Amenities

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 2.2-3).

### 2.2.3 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

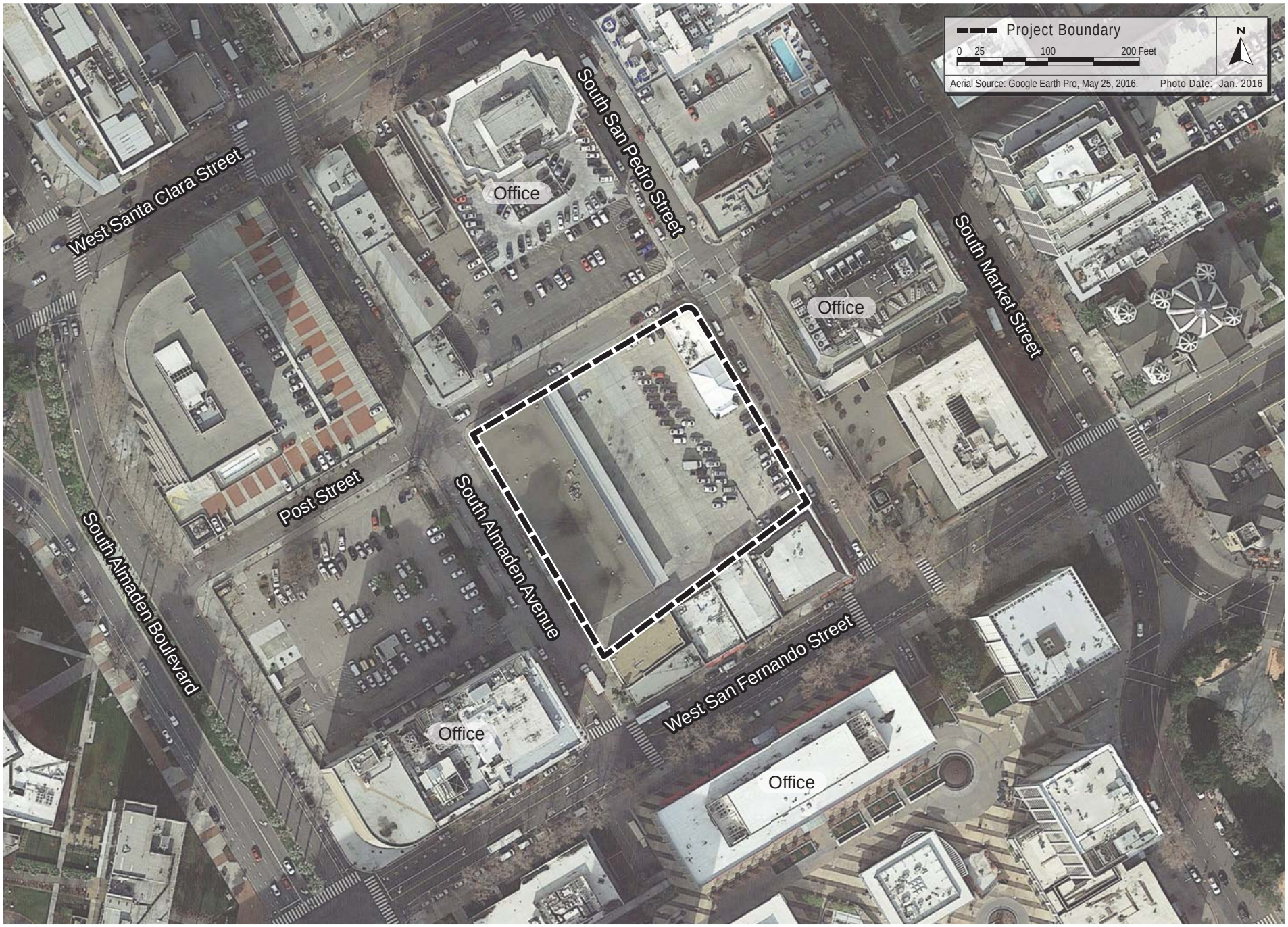



REGIONAL MAP

FIGURE 2.1-1

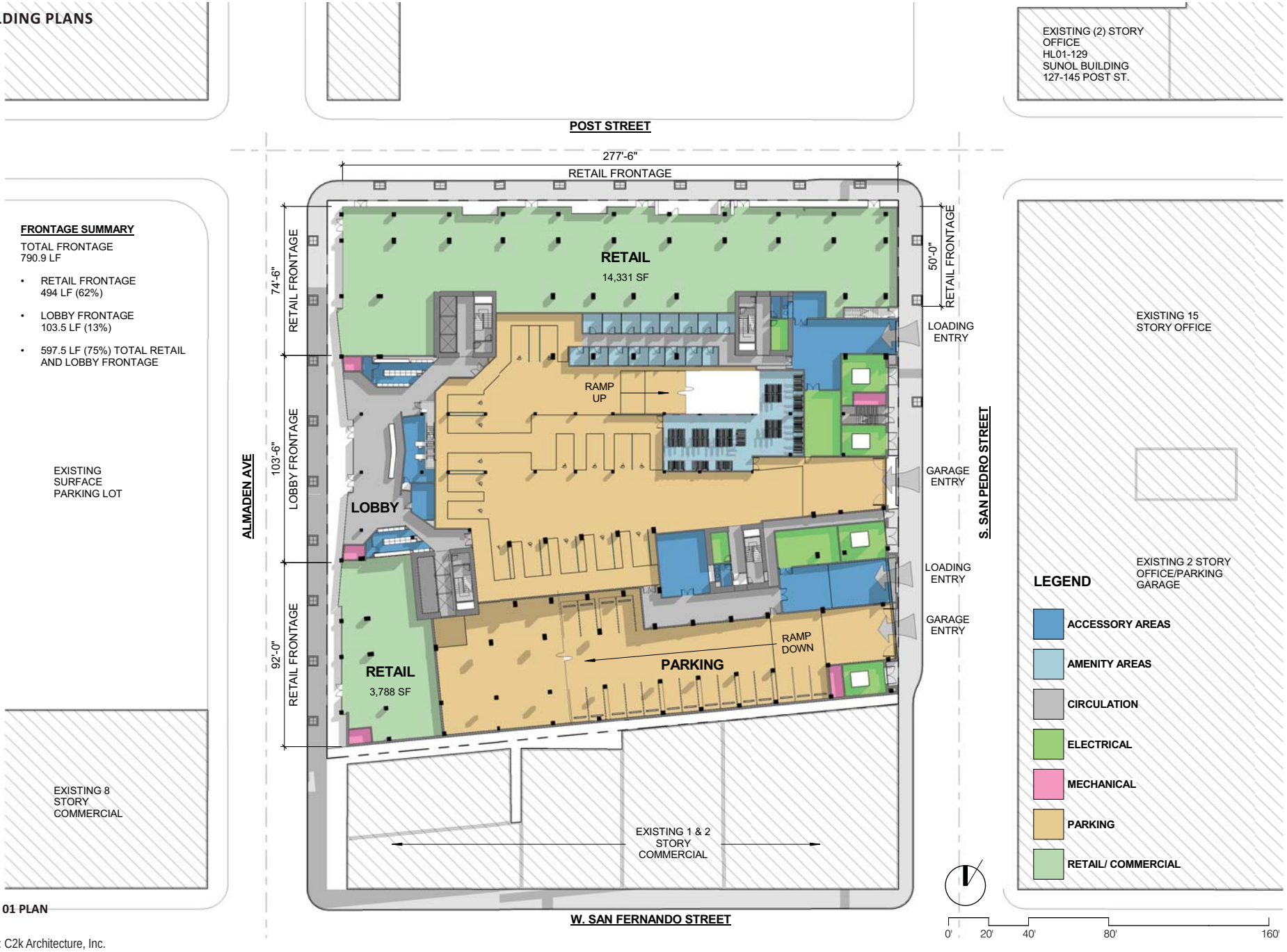

VICINITY MAP

FIGURE 2.1-2




AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 2.1-3

## BUILDING PLANS




LEVEL 01 PLAN

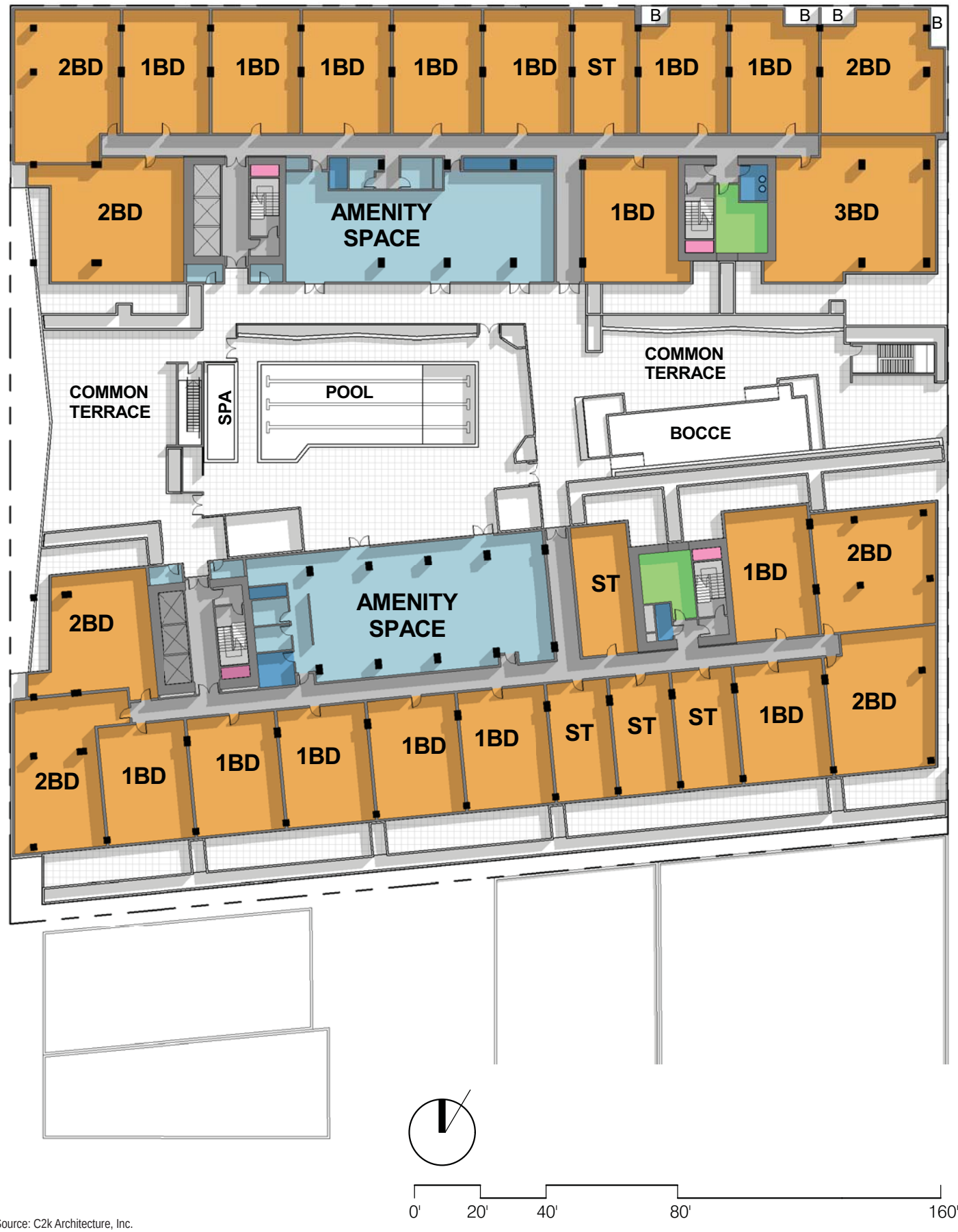
Source: C2k Architecture, Inc.

CONCEPTUAL SITE PLAN

FIGURE 2.2-1


Source: C2k Architecture, Inc.

SECOND FLOOR PLAN FIGURE 2.2-2




Source: C2k Architecture, Inc.

THIRD FLOOR PLAN FIGURE 2.2-3

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 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.

### 2.2.4 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.

### 2.2.5 Existing Land Use Designation and Zoning

The project site is designated *Downtown* in the *San Jose 2040 General Plan* and is zoned *DC – Downtown Core,* 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 4.2 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 4.2 for a discussion of the project's consistency with the zoning designation.

## 2.3 PROJECT OBJECTIVES

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

1. Provide up to 781 units of high density, high-rise housing in the downtown, accessible to downtown jobs, retail and entertainment and various modes of public transit, thereby implementing the strategies and goals of the Envision San Jose 2040 General Plan and Downtown Strategy Plan by locating high density development on infill sites along transit corridors to foster transit use and the efficiency of urban services and, strengthen downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San Jose.

2. Support the growth strategies by increasing the housing base in the downtown in order to reduce the overall amount of vehicle miles traveled by placing housing in proximity to jobs.

3. Advance the principal of "Smart Growth" by replacing a surface parking lot with new structures that will provide housing units in the Focused Growth area of downtown.

4. Create a high quality, well designed, high-density, high-rise residential development project in the downtown focus area to further the San Jose 2040 General Plan goal of creating a central identity for San Jose as well as adding a sense of permanency and stature to the downtown skyline.

5. Develop a high density, high-rise residential project in excess of 300 units per acre and with two towers in excess of 20 stories.

6. Efficiently provide adequate on-site parking and loading to meet the needs of the project.

7. Construct a high quality, high-density, high-rise residential development that is marketable and produces a reasonable return on investment for the Project Sponsor and its investors and is able to attract investment capital and construction financing.

8. Provide a mixed use development that provides a pedestrian oriented use that enlivens the streetscape of the downtown pedestrian network along Post Street and Almaden Avenue in accordance with the Downtown Streetscape Master Plan.

9. Provide bicycle parking for residents to help support the goals of the Envision San Jose 2040 General Plan in promoting San Jose as a great bicycling community.

## 2.4 CITY OF SAN JOSE OBJECTIVES

The City identified the following guiding principles for the Downtown Strategy 2000 Plan which are broad goals and objectives for downtown development. These principals/objectives apply to the proposed project.

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

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

1. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.

2. Major Strategy #9 - Destination Downtown: Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/ placemaking goals.

3. Community Design Goal CD-6 – Downtown Urban Design: Promote and achieve the Downtown's full potential as a regional destination and diverse cultural, recreational, civic, and employment center through distinctive and high-quality design.

4. Land Use Goal LU-3 – Downtown: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the as the symbolic heart of San José.

## 2.5 USES OF THE EIR

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

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

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

# SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

## ENVIRONMENTAL SETTING

This subsection: 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

## IMPACTS

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

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

## CONCLUSION

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

***Important Note to the Reader***

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

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

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

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

## 3.1 CULTURAL RESOURCES

The following information is based on a historic buildings report prepared by *Carey & Company* in January 2016, and a literature review completed by *Holman & Associates* in July 2016. The historic building report can be found in Appendix B of this SEIR. Because the literature review discusses the location of probable subsurface resources, the report is not included in this SEIR. The report is, however, on file in the Department of Planning, Building and Code Enforcement.

### 3.1.1 Environmental Setting

#### 3.1.1.1 *Regulatory Framework*

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), and the City of San Jose Historic Resources Inventory.

**National Criteria**

The NRHP is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, State and National level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
B. Property is associated with the lives of persons significant in our past.
C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
D. Property has yielded, or is likely to yield, information important to prehistory or history.

**State of California Criteria**

The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: a Comparison*, outlines the differences between the federal and state processes. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or

2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

**City of San José Criteria for Local Significance**

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof (Section 13.48.020 C).

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature' as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
   a. Of an architectural style, design or method of construction;
   b. Of a master architect, builder, artist or craftsman;
   c. Of high artistic merit;
   d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
   e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
   f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

   The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission, or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman (1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for Historic Reports published by the City's Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

Although the criteria listed within the Historic Preservation Ordinance are the most relevant determinants when evaluating the significance of historic resources in San José, the numerical tally system is used as a general guide for the identification of potential historic resources. The "Historic Evaluation Sheet" reflects the historic evaluation criteria for the Registers as well as the City's Historic Preservation Ordinance, and analyzes resources according to the following criteria:

- Visual quality/design
- History/association
- Environment/context
- Integrity
- Reversibility

A rating with numerical "points" is assigned by a qualified evaluator according to the extent to which each building meets the criteria listed above.

> 33 and above points – Potential historic resource (evaluation for possible status as a City Landmark)
> 1-32 points – Evaluated and found to be non-significant

The numerical rating system is not used to determine eligibility of a property for City Landmark designation. If a property scores 33 and above points on the City's Historic Evaluation Criteria, it requires evaluation for possible status as a City Landmark based on the landmark criteria per the City of San José's Historic Preservation Ordinance.

### Applicable Cultural Resources 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 cultural resources and are applicable to the proposed project.

*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 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a

building.[1] A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

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

*Policy ER-10.2:* Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

*Policy ER-10.3:* Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

### 3.1.1.2 *Existing Conditions*

**Prehistoric Subsurface Resources**

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 1,500 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone lived in small villages referred to as tribelets. Each tribelet occupied a permanent primary habitation site and also had smaller resource procurement camps. The Ohlone, who were hunter/gatherers, traveled between their various village sites to take advantage of seasonal food resources (both plants and animals). During winter months, tribelets would merge to share food stores and engage in ceremonial activities.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The *Downtown Strategy 2000 FEIR* notes that several Native American sites have been found in the area bounded by West Santa Clara Street, West Reed Street, South Market Street, and the Guadalupe River.

In July 2016, *Holman & Associates* completed a literature review to identify potential archaeological deposits below the ground surface in the immediate project vicinity. No evidence of the likelihood of prehistoric era archaeological deposits on the project site was found. The nearest recorded prehistoric site, CA-SCL-128/H, is located approximately 900 feet from the project site.

[1] For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

Findings from the recently excavated One South Market[2] project site (at the southwest corner of Market Street and Santa Clara Street – approximately 150 feet northeast of the project site) and Centerra[3] project site (at the southwest corner of Terraine Street and W. St. John Street – approximately 875 feet north of the project site) found no evidence of prehistoric artifacts.

Historic Subsurface Resources – Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located north of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street was the center of the second pueblo.

Each colonist in the pueblo was assigned a house lot and an agricultural plot. The houses (constructed of adobe) were generally placed in a north/south alignment around what is now Market Street. At this time, Market Street was the main north/south thoroughfare through the pueblo and connected to Market Plaza which was a large open area used for public markets and community entertainment.

An adobe of unknown age was located either partially within the southernmost portion or adjacent to the southern boundary of the project site prior to 1869. The site has a moderate potential for subsurface mission period resources.

Historic Subsurface Resources – Post-Mission Period to Mid 20th Century

In the mid-1800's the project area began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

Historic era maps of the project block identify the potential for historic-era resources within the study area. Sometime between 1869 and 1876, a church was constructed immediately south of the project site. By 1884, the site was developed with a planing mill facing Post Street, a shop to the west of the mill on Almaden Avenue, tenements to the southeast on South San Pedro, and a variety of houses and several outbuildings. By 1899, all sides of the block were developed with buildings.

Eight mid- to later 1800's historic subsurface features were identified at the One South Market project site. Based on the documented historic development on-site, the project site has a high potential for subsurface historic resources.

[2] *Archaeological Research Design for One South Market Street, San Jose, Santa Clara County, California.* Holman & Associates. October 2007 (On file at the City of San Jose Planning Department)
[3] Field Memorandum – Centerra Project – Preliminary Results of Mechanical Trench Test Program and Mitigation Recommendations. (On file at the City of San Jose Planning Department)

Structures on the Project Site

There are two structures on the project site, both of which are more than 50 years old. Both buildings were evaluated for historical significance.


*Greyhound Bus Station*

The bus station is a one-story cinder block building clad with glazed terracotta tile. The building was constructed in 1957 as a bus station and operated as such since that time. Greyhound operations recently moved to the Diridon Station.

The building has storefronts along Almaden Avenue which are mostly vacant. A prominent electric sign with the Greyhound logo is located above the main building entrance which is defined by two sets of double glass doors. Vertical steel beams equally divide the Almaden Avenue façade. The north and south facades are devoid of architectural features other than a modern "Greyhound Package Express" sign over a small storefront style doorway. The rear of the structure has a large overhang to shelter waiting and disembarking passengers. Painted steel columns support the overhang. Another logo sign is located just above the overhang at the north end of the building.

The Greyhound building was designed in the commercial modern style by the prominent architecture firm of Skidmore, Owings, and Merrill. The massing of the building is horizontal, the roof is flat, the structural system is visible on the exterior, a large sign is attached to the structure, and modern cladding materials are used, all of which reflect the commercial modern style.

The structure was not found to be eligible for inclusion in the CRHR under Criterion 1 or 2. Construction of the Greyhound Bus Station does not relate to a historic event or trend in local, state, or national history. Furthermore, the structure is not associated with any persons of significance. While the building was designed by Skidmore, Owings & Merrill and is a good example of modern architecture, it is a minor project within the firm's body of work. As a result, the building is not eligible for inclusion in the CRHR under Criterion 3.

While the property is not eligible for the CRHR, the structure qualifies for listing on the City's Historic Resources Inventory as a Structure of Merit with a score of 47.74. In addition, it may qualify as a City Landmark as it retains all seven aspects of integrity – location, setting, design, materials, workmanship, feeling and association.

*152 Post Street – Myth Tavern*

The one-story brick building was constructed in 1933 as a restaurant and shop and later became a hotel. There is an angled wall at the street corner which is the main entrance to the building. The

north, east, and south facades of the building are clad in stucco. The original brick is exposed on the west façade, which faces the bus station parking area. 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.


The windows are not original and the original doors have been replaced. In several locations, previous door and/or window openings have been filled in.

The structure was not found to be eligible for inclusion in the CRHR under Criterion 1 or 2. Construction of the Myth Tavern does not relate to a historic event or trend in local, state, or national history. Furthermore, the structure is not associated with any persons of significance. The building is not the work of a master architect. As a result, the building is not eligible for inclusion in the CRHR under Criterion 3.

The building is not currently listed and would not qualify for listing on the City's Historic Resources Inventory.

Historic Resources Adjacent or in Proximity to the Project Site


The project area, defined as buildings within one block of the project site (outlined in red in the adjacent figure), includes three buildings that are currently listed in the City of San Jose's Historic Resources Inventory:

1. Sunol Building (1895)
2. Market-Post Tower (1985)
3. Berger Building (1935)

Based on the City's inventory, the Sunol Building is a designated City Landmark. The Market-Post building is a candidate City Landmark, and the Berger Building is a Structure of Merit.

Six other buildings are not listed on the City's Historic Resources Inventory, but are at least 50 years old. These buildings include:

4. Taurinus (1934)
5. AT&T Building (1947)
6. Plaza Hotel (1962)
7. Caravan Lounge (1962)
8. Subway/AK's In & Out Mini Market (1939)
9. Pizz'a Chicago (1932)

None of these six buildings were found to be eligible for listing in the City's Historic Resources Inventory. While the overall condition of these buildings is good and each has distinctive architectural features, none of the buildings would qualify for the NRHP or the CRHR under any of the four criteria.

All of the nine structures are in their original locations, but the historic context and setting of the buildings have changed over time due to the continuous development and redevelopment of the project area.

## 3.1.2 Cultural Resources Impacts

### 3.1.2.1 *Thresholds of Significance*

For the purposes of this EIR, a cultural resources impact is considered significant if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory.

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 subsurface cultural resources impacts and significant historic building impacts, as described below.

### 3.1.2.2 *Consistency With City Policies*

*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 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.[4] A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

[4] For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

Consistency: A vibration assessment was prepared to determine if the proposed project would have a significant vibration impact on nearby modern and historic structures as discussed in Section 3.12 of Appendix A. Measures have been included to ensure that project construction will not exceed the City's vibration thresholds. Therefore, the project is consistent with Policy EC-2.3.

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

Consistency: The proposed project includes mitigation measures (described below) for the treatment of subsurface archaeological resources consistent with City policies and State law. Therefore, the project is consistent with Policy ER-10.1.

*Policy ER-10.2:* Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Consistency: The proposed project includes mitigation measures (described below) for the treatment of Native America human remains consistent with City policies and State law. Therefore, the project is consistent with Policy ER-10.2.

*Policy ER-10.3:* Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Consistency: The proposed project includes mitigation measures (described below) for the treatment of archaeological and paleontological resources consistent with City policies and State law. Therefore, the project is consistent with Policy ER-10.3.

#### 3.1.2.3 *Impacts to Subsurface Cultural Resources*

**Prehistoric Resources**

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface prehistoric resources.

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

While the project site is located within a prehistoric district defined in the *Downtown Strategy 2000 FEIR*, subsurface testing of nearby sites consistent with City policy and in accordance with Mitigation Measure CUL-3b of the *Downtown Strategy 2000 FEIR* failed to yield any evidence of prehistoric archaeological deposits. Therefore, it was concluded that the potential for discovery of significant prehistoric archaeological materials within the project site is low and the proposed project would have a less than significant impact on prehistoric subsurface artifacts. Nevertheless, measures consistent with the *Downtown Strategy 2000 FEIR* are included in the project to mitigate prehistoric impacts in the event of an unexpected discovery. **[Same Impact as Approved Project (Less Than Significant Impact)]**

### Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Based on the underlying geologic formation of the project site, the *2040 General Plan Final EIR* found the project site to have a high sensitivity (at depth) for paleontological resources. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, however, mammoth remains were found along the Guadalupe River in San José in 2005.

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources.

While the project site is located within a high sensitivity area (at depth) for paleontological resources, subsurface testing and excavation in the immediate project area, including project sites closer to Guadalupe River than the project site, has failed to yield any evidence of paleontological deposits. Therefore, it was concluded that the potential for discovery of significant paleontological deposits within the project site is low and the proposed project will have a less than significant impact on paleontological deposits. **[Same Impact as Approved Project (Less Than Significant Impact)]**

### Historic Resources

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface historic resources.

Based on the literature review completed for the project site (in accordance with Mitigation Measure CUL-3b of the *Downtown Strategy 2000 FEIR*), the site has the potential to yield post-mission artifacts associated with residential and commercial development. Subsurface testing on adjacent and nearby properties yielded evidence of historic archaeological deposits including building walls/foundations, adobe bricks, and refuse such as bottles, porcelain, ceramics, and dietary debris. Implementation of the proposed project will require excavation of the entire site to approximately 41 feet below the ground surface for construction of the underground parking structure. Implementation of the proposed project could uncover as yet unknown subsurface historic resources on the project site.

**Impact CUL-1:** Excavation of the site could result in the loss of all as yet unknown subsurface historic resources on the project site. **(Significant Impact)**

### 3.1.2.4 *Impacts to Historic Buildings*

Under CEQA, a structure need not be listed on a National, State, or local register to qualify as a significant resource. A structure is considered a significant resource under CEQA if it is found to be *eligible* for inclusion on a National, State, or local register. Furthermore, as outlined in the criteria of significance above, a prized architectural style or appealing aesthetic is not the sole determining factor in the historical significance of a structure, as structures can also be significant for association with important persons or events. Public opinions on what is visually appealing or architecturally important change over time, so a structure's aesthetic may not be appreciated by modern standards. That does not, however, preclude it from being eligible for listing as a historic resource.

**Demolition of Buildings on the Project Site**

As stated above, the buildings on the project site are not eligible for the California or National Registers. The Myth building is not eligible for listing on the City's Historic Resources Inventory and does not quality as a historic resource. The bus station is, however, eligible for listing as a Candidate City Landmark and demolition of the building would result in a significant impact.

**Impact CUL-2:** Demolition of the Greyhound Bus Station, a Candidate City Landmark eligible structure, would be a significant impact. **(Significant Impact)**

**Impact of the Proposed Project on Adjacent and Nearby Historic Structures**

There are three buildings that are currently listed in the City of San Jose's Historic Resources Inventory within one block of the project site.

1. Sunol Building (1895)
2. Market-Post Tower (1985)
3. Berger Building (1935)

Based on the City's inventory, the Sunol Building is a designated City Landmark. The Market-Post building is a candidate City Landmark, and the Berger Building is a Structure of Merit.

In assessing impacts to nearby historic structures, it is important to keep in mind that the historic resources in the project area have been identified as individual resources and not as buildings contributing to a historic district. There is no identified historic district in the project area. Questions of how the project impacts the architectural or spatial relationship between the identified resources, then, are irrelevant. Instead, only the project's impact on individual resources need be considered.

The original setting in the immediate area of the proposed development and the historic resources has been altered over time. This area has increased in density, particularly in regards to commercial high-rise buildings, pedestrian and automobile traffic. The 1985 Market-Post Tower, 160 W. Santa Clara Street, One South Market and other developments within one to two blocks have greatly urbanized and changed the character of this part of downtown San Jose.

The Downtown Historic Resources Design Guidelines has eight context elements for new construction adjacent to historic resources; two are most relevant to the project:

***Massing.*** Retain and Respect the massing of historic buildings on a street. Respect the overall heights of historic buildings, street walls, districts and areas. Add significantly higher new buildings, where appropriate, that are carefully sited in relationship to historic structures and predominant street ”walls.’’ Building masses should not dwarf immediately adjacent historic buildings. Add new infill construction that respects the massing and detailing of historic buildings on the street. New building masses adjacent to lower historic resources should step down in height and street facades should turn the corner to provide articulated visible side facades in order to reduce the impact on historic buildings.

***Exterior Materials.*** Add new building materials that match the historic materials of masonry, terra cotta, limestone, stucco, glass mosaic, cast stone, concrete, metal, glass and wood (trim, finishes and ornament only) where possible. New materials should be compatible with historic materials in scale, proportion, design, color, finish, texture and durability.

If the evaluation of the design compatibility and massing of the proposed project were limited solely to this new development, the impacts would be significant and adverse. The height, massing and scale of the proposed development are far greater than the surrounding properties identified in the HRI. The renderings show the new high-rise would have a design that is currently in vogue and makes use of extensive glazing with metal or concrete (the specific materials are not known). The use of these materials is quite different than the textured stucco, brick, and concrete of the surrounding historic resources. If, however, the context and cumulative effects of previous developments are taken into consideration, certain aspects of the integrity of the surrounding historic and potential historic resources have already been compromised. Although the proposed development would add to the previous loss of setting and feeling, this loss has already occurred.

***Setting is the physical environment of a historic property.*** Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the character of the place in which the property played its historical role. It involves how, not just where, the property is situated and its relationship to surrounding features and open space.

With urban development of the neighborhood with high-rise buildings, the historic resources listed in the HRI have previously lost the character of the physical environment in which they played their historical roles.

***Feeling is a property's expression of the aesthetic or historic sense of a particular period of time.*** It results from the presence of physical features that, taken together, convey the property's historic character. Feeling is the quality that a historic property has in evoking the aesthetic or historic sense of a past period of time and an awareness of its historical importance.

As with setting, the historic resources’ ability to evoke a historic sense of the past has previously been compromised. There are, as previously identified, seven aspects of integrity. Of the seven, two, setting and feeling, have already been compromised as a result of prior construction projects and the development and redevelopment of the project area over the last 130+ years. The proposed project would add to the loss of these two aspects, but with the loss already recognized, the additional impact to an existing cumulative impact would be inconsequential.

The historic resources in the project area listed in the HRI would continue to retain integrity of location, design, materials and workmanship. For a project to cause a substantial adverse change in the significance of these historic resources, it must demolish or materially alter in an adverse manner those physical characteristics that convey the resources' historic significance and account for their identification as San Jose Structures of Merit, City Landmark Structures, or Candidate City Landmarks. Through retention of those aspects of integrity that convey their historic significance, the three properties would continue to be listed in San Jose Historic Resources Inventory. Therefore, the proposed project would have a less than significant impact on nearby historic structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

### 3.1.3 Mitigation and Avoidance Measures for Cultural Resources

#### 3.1.3.1 *Subsurface Archaeological Resources*

The CEQA Guidelines provide detailed direction on the requirements for avoiding or mitigating significant impacts to historical and archaeological resources. Section 15064.5(b)(4) of the Guidelines states that a lead agency shall identify mitigation measures and ensure that the adopted measures are fully enforceable through permit conditions, agreements, or other measures. In addition, CEQA Guidelines Section 15126.4(b)(3) states that public agencies should, whenever feasible, seek to avoid damaging effects on any historical resources of an archaeological nature. Preservation in place is the preferred manner of avoiding impacts to archaeological sites, although data recovery through excavation is acceptable if preservation is not feasible. If data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historic resource, needs to be prepared and adopted prior to any excavation being undertaken.

**MM CUL 1-1:** The project applicant shall be required to complete subsurface testing to determine the extent of possible resources on-site. Subsurface testing shall be completed by a qualified archaeologist. Based on the findings of the subsurface testing, an archaeological resources treatment plan shall be prepared by a qualified archaeologist.

**MM CUL 1-2:** The project applicant shall ensure implementation of the archaeological resources treatment plan, by a qualified archaeologist, prior to the issuance of demolition and grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Treatment Plan shall be prepared and submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).

- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

**MM CUL 1-3:** All historic-era features identified during exploration shall be evaluated based on the California Register of Historical Resources criteria consistent with the archaeological treatment plan. After completion of the field work, all artifacts shall be cataloged and the appropriate forms shall be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University.

In addition to the archaeological resources treatment plan outlined above, the following measures (consistent with the mitigation measures outlined in the *Downtown Strategy 2000 FEIR*) are included in the project to further reduce impacts to subsurface cultural resources.

**MM CUL 1-4:** In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding he disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.

Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

**MM CUL 1-5:** In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the

remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendants (MLD), the descendants shall make recommendations regarding proper burial (including the treatment of grave goods), which shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.

#### 3.1.3.2 *Historic Structures on the Project Site*

The following mitigation is proposed to reduce the impact to the historic structure on the project site:

**MM CUL-2.1:** Documentation: The structure shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:

1. Drawings – Prepare sketch floor plans.
2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
3. Written Data – HABS written documentation in short form.

A architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.

The documentation shall be filed with the San Jose Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed by the City of San Jose.

Relocation by a Third Party: The structure shall be advertised for relocation by a third party. The project applicant shall be required to advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to City staff that this condition has been met prior to the issuance of demolition permits.

If a third party does agree to relocate the structure the following measures must be followed:

1. The City's Director of Planning, Building and Code Enforcement, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building.

2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.

4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties.* In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long term preservation of these features.

   Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and that all character-defining features were preserved. The project applicant shall submit a memo report to the City's Historic Preservation Officer documenting the relocation.

Salvage: If no third party relocates the structure, the structure shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Supervising Environmental Planner and Historic Preservation Officer of Planning, Building and Code Enforcement. The project applicant must provide evidence to Supervising Environmental Planner of the Planning, Building and Code Enforcement that this condition has been met prior to the issuance of demolition permits.

**MM CUL-2.2:** A qualified historian shall create a permanent interpretive program, exhibit, or display of the history of the property including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. The display shall be placed in a suitable publicly accessible location on the project site. The final design of the display shall be determined in coordination with the City's Historic Preservation Officer.

### 3.1.4 Conclusion

With implementation of the identified mitigation measures, the proposed project would have a less than significant impact on subsurface prehistoric resources and paleontological resources. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the proposed archaeological testing and treatment plans, the proposed project would be consistent with adopted City policies and would have a less than significant impact on known and unknown buried historic artifacts located on the project site. **[Same Impact as Approved Project (Less Than Significant With Mitigation)]**

With implementation of the identified mitigation measures, construction-related impacts to identified historic resources would be reduced to a less than significant level. **[Same Impact as Approved Project (Less Than Significant With Mitigation)]**

Demolition of the Greyhound Bus Station building would be a significant and unavoidable impact. **[Same Impact As Approved Project (Significant Unavoidable Impact)]**

## 3.2 LAND USE AND PLANNING

### 3.2.1 Environmental Setting

#### 3.2.1.1 *Regulatory Framework*

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

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

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

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

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

*Policy CD-6.11:* Design public sidewalks with ample width to be shared by large volumes of pedestrians and bicyclists, and plant and maintain street trees to provide a tree canopy for shade to enhance the visitor experience.

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

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

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

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

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

### 3.2.1.2 *Existing Conditions*

#### Existing Land Uses on the Project Site

The 1.74-acre project site is comprised of five parcels (APNs 259-40-012, -013, -014, -015, -016) located immediately south of Post Street between S. Almaden Avenue and S. San Pedro Street in the City of San Jose. The irregular shaped parcel has three street frontages, Post Street to the north, S. San Pedro Street to the east, and S. Almaden Avenue to the west. The 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 accessed by one ingress/egress driveway on Post Street. There is no vegetation on-site other than a few street trees.

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

#### 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. The project site is bounded by commercial buildings to the south, S. San Pedro Street to the east, Post Street to the north, and S. Almaden Avenue to the west.

Immediately south of the project site are five one- to two- story commercial buildings, including a motel, a bar, and small shops. None of these businesses have dedicated off-street parking or no setbacks from the sidewalk. The motel fronts onto South Almaden Avenue. The remaining buildings front onto W. San Fernando Street, which is a two-lane multi-directional roadway with dedicated bicycle lanes. Along the south side of W. San Fernando Street is a five-story office building and a below grade parking structure. There are street trees located along the building frontages.

South San Pedro Street is a two-lane multi-directional roadway. Along the east side of S. San Pedro Street are office buildings that vary in height with a parking garage in between. There are a few street trees, a sidewalk, and metered parking along the roadway.

Post Street is a two-lane multi-directional roadway with limited street metered parking and sidewalks with no landscaping. Along the north side of Post Street is a large surface parking lot surrounded by a chain-link fence, the Berger Building, and the Sunol Building (kitty-corner to the project site). The parking lot on the north side of Post Street has been approved for a 21-story tower (up to 230 feet tall) with up to 182 residential units and 10,000 square feet of retail.

South Almaden Boulevard is a two-lane, two-way roadway with metered parking and sidewalks. Along South Almaden Boulevard is a large surface parking lot and an eight-story office building.

#### Existing Land Use Designation and Zoning

The project site is designated *Downtown* under the adopted General Plan and is zoned *DC – Downtown Commercial*. As stated above, the *Downtown* designation includes a variety of uses such as office, retail, service, residential, and entertainment with building heights of three to 30 stories.

All development within this designation should enhance the complete community in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Residential projects within the *Downtown* designation should incorporate ground floor commercial uses. The *Downtown* designation has a maximum residential density of up to 800 du/ac,

Permitted land uses under the *DC – Downtown Commercial* zoning are consistent with the General Plan land use designation. Properties located in the DC zoning districts shall only be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. Development shall not be subject to a minimum setback requirement.

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

## 3.2.2 Land Use and Planning Impacts

### 3.2.2.1 *Thresholds of Significance*

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

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

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 land use impacts, as described below.

### 3.2.2.2 *Consistency with Plans*

**Consistency with General Plan Policies**

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

Consistency: The proposed building would be compatible in height, massing, and scale to other recently approved and/or constructed high-rise mixed-use buildings including One

South Market and Post and San Pedro which are located within one block of the project site. Therefore, the project is consistent with Policy CD-4.9.

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

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

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

Consistency: The proposed project includes ground-floor retail to support pedestrian movement along all three street frontages. To create a pedestrian environment through the site, the proposed building would have no setback from the sidewalks along the street frontages to allow an access easement along the southern boundary of the project site. The proposed project would be required to comply with the applicable City's Design Guidelines as discussed in Section 4.1 of Appendix A. Therefore, the proposed project is consistent with Policy CD-6.2.

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

Consistency: The Design Guidelines highlight the opportunities that are possible to create strategies and form, especially those unique to San Jose, for buildings and their interface. The Downtown Design Guidelines define the design objectives for the elements that determine the image of downtown in the areas of site, architecture, and streetwall.[5] The proposed project would be required to comply with the City's applicable Design Guidelines as discussed in Section 4.1 of Appendix A. Therefore, the proposed project is consistent with Policy CD-6.10.

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

Consistency: As proposed, the project would include up to 20,000 square feet of ground floor retail within the downtown core and put new housing in proximity to existing retail and services. Therefore, the project is consistent with Policy LU-3.4.

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

[5] A streetwall is one of the long side boundaries of a street, formed by buildings, hedges, etc.

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

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

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

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

Consistency: The proposed project would be required to comply with policies of the ALUC comprehensive land use plan for Mineta San Jose International Airport. Therefore, the project is consistent with Policy TR-14.3.

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

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

**Consistency With General Plan and Zoning Land Use Designations**

The project site is currently designated as *Downtown* under the City of San José General Plan and allows a maximum FAR of 30.0 with buildings heights of three to 30 stories and a residential density of 800 du/ac. The site is with the *DC – Downtown Core* zoning district and would be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport.

The project proposes to demolish the Greyhound bus station and construct two residential towers (one 23-stories and one 24-stories) with ground floor retail. The project would have an FAR of 13.6 and a residential density of 449 du/ac. As designed, the building conforms to the design parameters outlined in the zoning code and meets the development standards in the General Plan. Therefore, the project site is consistent with the General Plan and zoning land use designations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

### 3.2.2.3 *Land Use Compatibility*

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a residential/retail mixed-use project located in the downtown core.

The project area is characterized by office, retail, service, residential, entertainment uses and both low-rise and high-rise buildings. Implementation of the proposed project would result in the redevelopment of an underutilized site with high-density, mixed-use development that would place housing within close proximity to transit, jobs, and services and increase retail/commercial space within the downtown core. Based on the analysis prepared for the *Downtown Strategy 2000 FEIR*, the proposed project would not conflict with the adjacent and nearby land uses because it is a compatible land use that would not interfere with the existing operations of the adjacent businesses or neighboring residents. It is reasonable to assume that future residents would utilize existing businesses and restaurants that are located within walking distance of the site and/or work in the downtown.

The project, as proposed, is consistent with the General Plan. The *San Jose 2040 General Plan FEIR* concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, can be substantially limited or precluded with implementation of applicable General Plan policies and actions for planning and implementation as well as conformance with identified ordinances and adopted design guidelines. The proposed project will comply with all applicable City policies, actions and ordinances, and will be consistent with adopted design guidelines. Therefore, the proposed project would have a less than significant impact on surrounding land uses. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### Shade and Shadow

The City of San José typically identifies significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on public open spaces. The project site is not located in proximity to any public open space. The proposed development would create shadows on adjacent property; however, it would not substantially impair the beneficial use of adjacent properties by the residents. Implementation of the project would conform to the General Plan policies to minimize shade and shadow impacts to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### Compatibility with Airport Operations

Much of the greater downtown San José area, including the project site, is subject to several Federal and local regulations and policies due to proximity to San José International Airport and its aircraft flight paths. See Section 3.8 in Appendix A (*Hazards and Hazardous Materials*) regarding required project compliance with FAA, City General Plan, and ALUC Comprehensive Land Use Compatibility Plan height regulations and policies, and Section 3.12 of Appendix A (*Noise*) regarding required project compliance with City General Plan and ALUC noise policies. As indicated, (a) FAA issuance of "no hazard" determinations and City incorporation of any associated conditions set forth by the FAA, is required prior to City project approval, and (b) residential and commercial land uses are considered compatible (subject to standard mitigation) within the project's 60-65 dBA CNEL aircraft noise environment.

Pursuant to City and ALUC policy, the applicant would be required to grant an Avigation Easement over the project site as a condition of project approval. The recorded easement would provide for acceptance of aircraft noise and other effects of aircraft flyovers as well as elevation restrictions that allow for the currently proposed maximum building height of 252 feet above ground. Also, the project's proposed maximum height would not impact any aircraft emergency one-engine inoperative (OEI) procedure currently used by airlines at the Airport.

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

**Other Land Use Impacts**

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

### 3.2.3 Mitigation and Avoidance Measures

No mitigation is required or proposed.

### 3.2.4 Conclusion

Implementation of the proposed project will result in the same less than significant land use impacts previously identified in the Downtown Strategy 2000 FEIR and the General Plan FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

## 3.3 ENERGY

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

### 3.3.1 Environmental Setting

#### 3.3.1.1 *Regulatory Framework*

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

**State of California**

Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and required that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. As described previously, PG&E's (the electricity provider to the project site) 2015 electricity mix was 30 percent renewable.

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

Building Codes

At the state level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years; the 2013 standards became effective July 1, 2014. The 2016 Title 24 updates will be published on or before July 1, 2016 and will go into effect on January 1, 2017.[6]

[6] California Building Standards Commission. 2015 Triennial Code Adoption Cycle. Accessed April 19, 2016. http://www.bsc.ca.gov/.

Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[7]

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

**City of San Jose**

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)[8], GreenPoint[9], or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in the table below.

**Table 3.3-1: Private Sector Green Building Policy Applicable Projects**

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

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. http://www3.sanjoseca.gov/clerk/cp_manual/CPM_6_32.pdf.

### 3.3.1.2 *Background Information*

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

Energy usage is typically quantified using the British thermal unit (Btu).[10] As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a

[7] CEC. Building Energy Efficiency Program. 2013. Accessed April 18, 2016. http://www.energy.ca.gov/title24/.
[8] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[9] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.
[10] A Btu is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.

kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively. Utility providers measure gas usage in therms. One therm is approximately equal to 100,000 Btus.

Electrical energy is expressed in units of kilowatts (kW) and kilowatt-hours (kWh). One kilowatt, a measurement of power (energy used over time), equals one thousand joules[11] per second. A kilowatt-hour is a measurement of energy. If run for one hour, a 1,000 watt (one kW) hair dryer would use one kilowatt-hour of electrical energy. Other measurements of electrical energy include the megawatt (1,000 kW) and the gigawatt (1,000,000 kW).

Total energy usage in California was approximately 7,642 trillion Btus in the year 2013 (the most recent year for which this specific data was available).[12] The breakdown by sector was approximately 19 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 38 percent for transportation.[13]

Existing energy use associated with operation of development on the project site primarily consists of fuel for vehicle trips to and from the site, electricity for lighting and cooling, and natural gas for operations within the commercial building (Greyhound operations have moved off-site). Given the nature of land uses proposed as part of the project, the remainder of this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

## Electricity

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

The bulk of California's electricity comes from power plants. In 2014, 45 percent the state's electricity was generated by natural gas, nine percent by nuclear, five percent by large hydroelectric, and six percent by coal. Renewable sources such as rooftop photovoltaic systems, biomass power plants, and wind turbines, accounted for 20 percent of California's electricity. Fifteen percent of California's power comes from unspecified sources.[14]

In 2014, total electrical system power for California was 293,268 gigawatt-hours (GWh), about one percent lower than 2013. California's in-state electricity production remained virtually unchanged from 2013 levels at 198,908 GWh, a difference of less than one percent compared to the year before. Growth in annual electricity consumption was flat or declining in 2014 reflecting continued slow economic growth in California, particularly in Southern California. It is estimated that future

[11] As defined by the International Bureau of Weights and Measures, the joule is a unit of energy or work. One joule equals the work done when one unit of force (a Newton) moves through a distance of one meter in the direction of the force.
[12] U.S. EIA. California Energy Consumption Estimates 2013. Accessed April 18, 2016. http://www.eia.gov/state/?sid=CA#tabs-2.
[13] U.S. EIA. California Energy Consumption by End-Use Sector, 2013. Accessed April 18, 2016. http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_btu_1.html&sid=CA.
[14] CEC, Energy Almanac, Total Electricity System Power. Accessed April 18, 2016. Available at: http://energyalmanac.ca.gov/electricity/total_system_power.html.

demand in California for electricity will grow at approximately one percent each year through 2025, and that 320,862 GWh of electricity would be utilized in the state in 2025.[15]

Pacific Gas and Electric Company (PG&E) is San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2015, natural gas facilities provided 25 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 23 percent; hydroelectric operations provided six percent; renewable energy facilities including solar, geothermal, and biomass provided 30 percent; and 17 percent was unspecified.[16]

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. Electricity in Santa Clara County in 2014 was consumed primarily by the commercial sector (77 percent), the residential sector consuming 23 percent. In 2014, a total of approximately 16,671 GWh of electricity were consumed in Santa Clara County.[17]

### Natural Gas

In 2013, approximately ten percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.[18] In 2015, approximately 36 percent of the natural gas delivered for consumption in California was for electricity generation, 35 percent for industrial uses, 18 percent for residential uses, 10 percent for commercial uses, and less than one percent for transportation. As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2015, the State of California consumed approximately 2.3 trillion cubic feet of natural gas, or 2.36 billion MBtu.[19][20]

Overall demand for direct-service natural gas in the commercial residential sectors California is expected to flatten or decrease as a result of overall energy efficiency. Demand for natural gas at power plants for electricity generation is also expected to decrease by one percent by 2025 (as compared to 2013 demand rates). This decrease is a result of increases in renewable power generation.[21]

### Gasoline for Motor Vehicles

California accounts for more than one-tenth of the United States' crude oil production and petroleum refining capacity.[22] In 2015, over 18 billion gallons of gasoline, diesel, and jet fuel were consumed

[15] CEC. California Energy Demand Updated Forecast 2015-2015. Accessed April 18, 2016. http://www.energy.ca.gov/2014publications/CEC-200-2014-009/CEC-200-2014-009-SD.pdf.
[17] CEC, Energy Consumption Data Management System. Electricity Consumption by County. Accessed April 18, 2016. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[18] CEC. Natural Gas Supply by Region. 2011. Accessed April 18, 2016. Available at: http://www.energyalmanac.ca.gov/naturalgas/natural_gas_supply.html.
[19] U.S. EIA. Natural Gas Summary. Accessed April 18, 2016. http://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.
[20] U.S. EIA. Natural Gas Conversion Calculator. Accessed April 18, 2016. https://www.eia.gov/kids/energy.cfm?page=about_energy_conversion_calculator-basics#natgascalc.
[21] [21] CEC. *2013 Natural Gas Issues Trends, and Outlook*. Accessed April 20, 2016. http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf.
[22] U.S. EIA. California State Energy Profile. Accessed April 18, 2016. http://www.eia.gov/beta/state/analysis.cfm?sid=CA.

in California.[23] The United States has seen low prices and high demand in the last few years due to low oil prices and a recovering economy, and this trend is expected to continue in the near term.[24]

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970s to 23.4 mpg in 2013.[25] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, applies to cars and light trucks of Model Years 2011 through 2020.[26,27] In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.[28]

#### 3.3.1.3 *Energy Use of Existing Development*

The electricity and natural gas used by the existing commercial building (classified as restaurant) at full occupancy is estimated in Table 3.3-2 based on energy demand factors used in the California Emissions Estimator Model (CalEEMod).

**Table 3.3-2: Estimated Annual Energy Use of Existing Development**

| Development | Energy Demand Factors | Electricity Use (kWh) | Natural Gas Use (kBtu) |
|---|---|---|---|
| ~2,200 square foot restaurant | 12.83 kWh/square foot; 64.82 kBtu/square foot | 28,226 | 142,604 |

Source: California Air Pollution Control Officers Association (CAPCOA). *CalEEMod User's Guide, Version 2013.2*. July 2013. Appendix D, Table 8.1. Climate Zone 4.

As shown above, each year the existing commercial building on-site uses approximately 28,226 kW of electricity and 142,604 kBtu of natural gas.

### 3.3.2 Energy Impacts

#### 3.3.2.1 *Thresholds of Significance*

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

[23] California State Board of Equalization. Taxable Gasoline, Diesel Fuel, Jet Fuel Ten Year Reports. Accessed April 18, 2016. http://www.boe.ca.gov/sptaxprog/spftrpts.htm.
[24] U.S. EIA. Short-Term Energy and Fuels Outlook. Accessed April 18, 2016. http://www.eia.gov/forecasts/steo/report/us_oil.cfm.
25 U.S. EPA. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed April 18, 2016. http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_04_23.html.
[26] U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed April 18, 2016. Available at: http://www.afdc.energy.gov/laws/eisa
[27] Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Page 1449. Accessed April 18, 2016. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf
[28] National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. Accessed April 19, 2016. http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards.

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

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

The project proposes to demolish the existing buildings on-site and construct a mixed-use building with two residential towers that includes up to 781 residential units and 20,000 square feet of retail. Parking would be provided in a 5.5 level parking garage with two levels above grade and the remaining levels below grade. Energy would be consumed during both the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition and grading), and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The operation of the proposed residential and retail uses would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. The project architect has estimated that the total annual combined energy usage for the project would be 55,633,746 kBtu per year.

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

The existing commercial building, at full capacity, would use approximately 231,290 kBtu annually. The proposed project would use 55,633,746 kBtu per year, a net increase in energy usage of 55,402,456 kBtu per year.[29]

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

As described above, annual 293,268 GWh electricity use in California was projected to increase by approximately one percent each year through 2025. The proposed project would increase annual electricity use by approximately 17,632,863 kWh, or 17.6 GWh. The project would not result in a substantial increase in demand on electrical energy resources in relation to projected supply. California uses approximately 2.36 billion MBtu of natural gas each year. It is assumed that energy efficiency technology and the renewable energy targets are likely to reduce demand for natural gas in the state in the future. Additionally, system and drilling efficiencies will continue to enhance production and decrease the overall need for natural gas.[30] Based on the relatively small increase in natural gas demand from the project compared to the growth trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to projected supplies.

[29] 1 kWh equals 3.142 kBtu.
[30] CEC. *2013 Natural Gas Issues Trends, and Outlook*. Accessed April 20, 2016. http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf.

Gasoline usage for the land uses on-site would increase substantially when compared to the gasoline use associated with the existing development. It would not, however, be a substantial increase in the context of gasoline supply and demand in the City of San José and in the State of California. New automobiles purchased by future users of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve.

The project site in proximity to the Diridon Transit Station (LRT, Caltrain, ACE, etc.), numerous bus routes, bicycle lanes, and the Guadalupe River Trail. These transit services would likely result in residents commuting by bus or rail. In addition, with the on-site retail and proximity to services and jobs, residents may not need travel outside the downtown core on a daily basis, which would decrease transportation-related energy use. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### 4.12.2.5 Energy Efficiency

***Construction***

The anticipated construction schedule assumes that the project would be built out over a period of approximately two years beginning as early as April 2017, or an estimated 520 construction workdays (assuming an average of 260 construction days per year).[31] The project would require demolition, grading, and site preparation for construction of the proposed buildings. Based on data provided by the project applicant, the proposed project would require up to 118,331 cubic yards of soil export.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project, however, does include several measures that will improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed in *Section 3.3, Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project will also recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below).

There will be unavoidable adverse effects caused by construction because the use of fuels and building materials are fundamental to construction of new buildings. With implementation of the Air Quality-related BMPs, the energy impacts of construction and unavoidable effects of development would be less than significant.

***Operation***

The proposed project would be required to build to the state's CalGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Though the proposed

[31] Illingworth & Rodkin. *Santana West Project Air Quality Assessment*. April 2016.

project does not include on-site renewable energy resources, the proposed mixed-use building would also be built to achieve LEED certification consistent with San José Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by implementing the following green building measures and design features:

- Exceed the State Title 24 California Energy Code requirements by 15 percent;
- Salvage or recycle at least 50 percent of construction waste;
- Use of recycled and/or local building materials;
- Cool roofs; and
- Water efficient landscaping and irrigation design.

The project proposes 195 bicycle parking spaces, consistent with the requirements of the City of San Jose Municipal Code; which would incentivize the use of alternative methods of transportation to and from the site. The project would also be required to implement a transportation management plan (TDM plan) as a condition of project approval to reduce single-occupancy trips. Based on the measures required for LEED certification, not only would the proposed project comply with existing state energy standards, it would likely exceed them. **[Same Impact as Approved Project (Less Than Significant Impact)]**

#### 3.3.2.4 *Distance Between Jobs and Housing*

The project is an infill development and would create housing and jobs in a city that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. While the number of jobs included in the project are minimal, the total development is part of the planned growth in the Downtown Strategy Plan and the General Plan which seeks to balance jobs and housing throughout the City.

Furthermore, it is placing housing in walking distance to multiple modes of transit, providing alternatives to single-occupancy commutes for residents who would have to travel outside of San Jose for work. While the project would increase the VMT associated with the project site compared to the existing condition, the project would not exacerbate the jobs/housing imbalance or result in significant energy impacts as a result of an increase in the distance between jobs and housing. **[Same Impact as Approved Project (Less Than Significant Impact)]**

### 3.3.3 Mitigation and Avoidance Measures

No mitigation is required or proposed.

### 3.3.4 Conclusion

The project proposes a residential/retail development and would place new residences and jobs at an infill site in downtown San José. The project would not result in significant energy impacts associated with the distance between jobs and housing and, due to the inclusion of the proposed green building design features, the project would not result in the wasteful use of fuel or energy. The project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. **[Same Impact as Approved Project (Less Than Significant Impact)]**

# SECTION 4.0 CUMULATIVE IMPACTS

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

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

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

## 4.1 CUMULATIVE PROJECT IMPACTS

Based on the analysis in this EIR (including the Initial Study in Appendix A), the proposed project would result in a less than significant impact to aesthetics, agricultural/forestry resources, air quality, biological resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, noise, population and housing, public services, recreation, transportation, and utilities and service systems. The degree to which the proposed project would add to existing or probable future impacts on existing land uses and/or resources would be negligible. As a result, the project's contribution to a cumulatively significant impact in any of these resource areas would not be considerable.

The proposed project would result in significant cultural resources impacts. Cultural resources impacts would result from demolition of the Greyhound Bus Station and ground disturbing activities associated with construction of the proposed project. The probability of cultural resources being found on-site is moderate due to the fact that resources have been found on nearby sites. The downtown area of San Jose is a highly sensitive area for cultural resources and it must be assumed that buried resources could be found on-site. The City of San Jose has City policies and standard measures for the discovery, documentation, and curation of artifacts consistent with State law. With implementation of the proposed mitigation, the project would have a less than significant project level impact and would not have a cumulatively considerable impact to known or unknown buried resources.

Implementation of the proposed project would result in the demolition of one historic bus station and one non-historic commercial building. The bus station is representative of mid-century architecture.

While the City of San Jose expanded some after World War II, the fruit processing industry was the predominant employer in the city until approximately 1950. Between 1950 and 1969, the City grew from 17 square miles and 95,280 residents to 137 square miles and over 450,000 residents. This growth resulted in a significant amount of mid-century/modernist buildings throughout the City.[32]

With implementation of the proposed project, there would be no mid-century transit terminals in San Jose. Given that the Greyhound Bus Station is a unique local resource, the demolition of the building would result in a cumulatively significant historic building impact at a local level.

## 4.2 CONCLUSION

Implementation of the proposed project would result in a cumulatively considerable impact to locally historic mid-century buildings in San Jose. There is no feasible mitigation to reduce this impact to a less than significant level.

[32] San Jose Modernism Historic Context Statement. June 2009

# SECTION 5.0 GROWTH-INDUCING IMPACTS

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

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

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

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

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

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

The project would not have a significant growth inducing impact.

# SECTION 6.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

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

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

# SECTION 7.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

1. Implementation of the proposed project would result in the demolition of the Greyhound Bus Station, which was found to be eligible for listing on the City's Historic Resources Inventory as a Candidate City Landmark.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR

# SECTION 8.0 ALTERNATIVES

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

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

The stated objectives of the project proponent are to:

1. Provide up to 781 units of high density, high-rise housing in the downtown, accessible to downtown jobs, retail and entertainment and various modes of public transit, thereby implementing the strategies and goals of the Envision San Jose 2040 General Plan and Downtown Strategy Plan by locating high density development on infill sites along transit corridors to foster transit use and the efficiency of urban services and, strengthen downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San Jose.

2. Support the growth strategies by increasing the housing base in the downtown in order to reduce the overall amount of vehicle miles traveled by placing housing in proximity to jobs.

3. Advance the principal of "Smart Growth" by replacing a surface parking lot with new structures that will provide housing units in the Focused Growth area of downtown.

4. Create a high quality, well designed, high-density, high-rise residential development project in the downtown focus area to further the San Jose 2040 General Plan goal of creating a central identity for San Jose as well as adding a sense of permanency and stature to the downtown skyline.

5. Develop a high density, high-rise residential project in excess of 300 units per acre and with two towers in excess of 20 stories.

6. Efficiently provide adequate on-site parking and loading to meet the needs of the project.

7. Construct a high quality, high-density, high-rise residential development that is marketable and produces a reasonable return on investment for the Project Sponsor and its investors and is able to attract investment capital and construction financing.

8. Provide a mixed use development that provides a pedestrian oriented use that enlivens the streetscape of the downtown pedestrian network along Post Street and Almaden Avenue in accordance with the Downtown Streetscape Master Plan.

9. Provide bicycle parking for residents to help support the goals of the Envision San Jose 2040 General Plan in promoting San Jose as a great bicycling community.

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

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

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

1. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.

2. Major Strategy #9 - Destination Downtown: Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/ placemaking goals.

3. Community Design Goal CD-6 – Downtown Urban Design: Promote and achieve the Downtown's full potential as a regional destination and diverse cultural, recreational, civic, and employment center through distinctive and high-quality design.

4. Land Use Goal LU-3 – Downtown: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the as the symbolic heart of San José.

An EIR is required to include a "No Project" alternative that "compares the impacts of approving the proposed project with the impacts of not approving the proposed project."[33]

The significant impacts identified in this EIR as resulting from the proposed project include a significant historic building impact resulting from demolition of the Greyhound Bus Station. The logical way to reduce this impact would be to incorporate the building into the project. Therefore a design alternative is discussed below.

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a)) As this implies, "an

[33] CEQA Guidelines Section 15126.6(e)(1)

agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[34] The proposed project is a residential tower within the downtown core near transit, major roadways, and jobs and services. Given the number of historic structures and potentially historic structures in the downtown core, and the limited number of parcels available for redevelopment, it is likely that an alternative location within this area of the City would also result in an impact to a historic structure(s). Furthermore, most of the available parcels in the downtown core are already under consideration for redevelopment and would not likely be large enough to support the density proposed by the project. For these reasons, an alternative location was not analyzed.

## A. NO PROJECT ALTERNATIVE

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

### *No Project – No Development Alternative*

The No Project – No Development Alternative would retain the small commercial building and the bus station. Greyhound operations have already been relocated to the Diridon Station west of the project site. The building is now vacant and it is unlikely that a new bus line would take over operation of the site. The building may, however, be refurbished for a new use such as warehouse, shipping, or some other light industrial business. If the project site were to remain as is there would be no new impacts. The project site is, however, currently designated *Downtown* in the 2040 General Plan. The site is currently underutilized based on the current land use designation.

### *No Project – Downtown Redevelopment Alternative*

As noted above, the existing commercial building on-site is not wholly inconsistent with the current land use designation. The current Downtown Commercial zoning is consistent with the General Plan land use designation. Because the current development is not consistent with the General Plan and is located within the downtown core, which is intended to accommodate future growth, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future consistent with the land use designation and development standards set by the zoning code.

Given the General Plan and zoning designations as well as the objectives of the *Envision San Jose 2040 General Plan*, any alternative project proposed on this site would likely be comparable in

[34] CEQA Guidelines Section 15126.6(f)(2)(A)

density and scale to what is currently proposed, assuming that any proposal would try to maximize development on-site. As a result, the historic building impact would be comparable to the proposed project.

**Conclusion:** Implementation of the "No Project" No Development alternative would avoid the significant impacts identified in this EIR. The "No Project" No Development alternative would not, however, allow for new high density mixed-use development to be constructed on the project site consistent with the General Plan. This alternative does not meet any of the objectives of the proposed project.

The "No Project" Downtown Redevelopment alternative would likely result in similar impacts to the proposed project.

## B. DESIGN ALTERNATIVE

As proposed, the project would demolish the Greyhound Bus Station and the small commercial building on-site to construct a residential building with ground floor retail at a maximum height of 252 feet. Under the Design Alternative, the bus station (a locally significant historic building) would be retained on-site and utilized for the retail component of the project. The overhang and the building sign at the back of the building would be removed so the residential towers could be constructed on the remaining approximately two-thirds of the site. There would be no setback between the bus station and the new building. Automobile access to the site would continue to be from S. San Pedro Street. Another access could be provided from S. Almaden Avenue from the existing driveway along the southern boundary of the site.

As proposed, the project includes four levels of underground parking and two levels of above-grade parking. With retention of the bus station building, parking would be limited to the portion of the site that could be cleared for construction. The project would need to reduce the number of parking spaces, thereby reducing the total number of residential units, or increase the number of above-grade parking levels to try to achieve the proposed density of 449 du/ac. Under this alternative, the towers could still be a maximum of 24 stories tall, but may be smaller if the total number of residential units needs to be reduced.

To provide the same square footage of parking area (which may not equate to an equal number of spaces as the proposed project), the Design Alternative would require four levels of above grade parking instead of two. Assuming open space on top of the fourth floor and two residential towers with the same general residential unit layout as the proposed project, retention of the bus station building would reduce the total number of units to approximately 477 (274 du/ac). Additional units could be added if the structure was converted to a single tower with the open space limited to rooftop decks.

As proposed, the project includes ground floor retail on two of the three street frontages, along with the main building entrance, to support pedestrian oriented development. South San Pedro Street is proposed to be the access point for the parking structure and does not include any pedestrian oriented uses. With retention of the bus station building, there would be no retail on Post Street, but the lobby of the building could be moved to that location. Alternatively, the lobby entrance could go through the bus station building and into the new structure. Regardless of where the lobby entrance is

located, the orientation of the bus station building on-site precludes widening of the sidewalks along S. Almaden Avenue and Post Street and provides little to no space for street trees. This could limit the businesses that would locate into the building (no outdoor seating) and is inconsistent with the City's goals and the project objectives of making the development pedestrian oriented.

While locally significant as a historic resource, the aesthetic of the bus station building is not remarkable and retention of the building would preclude development of a new structure along S. Almaden Avenue that may enhance the visual character of the project area more than the existing building. All other impacts under this alternative would be comparable to the proposed project.

**Conclusion:** Implementation of the design alternative would avoid the significant historic building impact identified in this SEIR. The alternative would, however, preclude the higher density of housing that is proposed by the project and the resulting design would be less pedestrian oriented than the proposed project. This alternative meets most of the project objectives. The project would not be consistent with objectives no. 5 and 8.

## C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the Design Alternative because the project's significant unavoidable historic building impact would be avoided, and no new significant impacts would result. The Design Alternative would achieve all but two of the objectives of the proposed project.

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# SECTION 10.0 LEAD AGENCY AND CONSULTANTS

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