

Addendum

To

The Final Program Environmental Impact Report for the
Diridon Station Area Plan (SCH#2011092022),
Final Program Environmental Impact Report for the Envision San José
2040 General Plan (SCH# 2009072096), and the Supplemental Program
Environmental Impact Report for the Envision San José 2040 General
Plan (SCH# 2009072096)

Park and Delmas Mixed-Use Residential Project File No.: [SP16-016]



June 2016

ADDENDUM TO THE DIRIDON STATION AREA PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH #2011092022) AND THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - GREENHOUSE GAS EMISSION ANALYSIS (SCH# 2009072096)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the **Diridon Station Area Plan Final Program Environmental Impact Report, the Envision San José 2040 General Plan Final Program Environmental Impact Report, and the Supplemental Environmental Impact Report - Greenhouse Gas Emission Analysis** because minor changes made to the project that are described below do not raise new issues about the significant impacts on the environment.

File Number and Project Name: SP16-016 Park and Delmas Mixed-Use Residential Project

Special Use Permit to allow the demolition of an existing 4,200-square foot office building, the removal of six ordinance-sized trees, and the construction of a 4-and-5-story development with up to 123 residential units, one level of underground parking, and approximately 1,000 square feet of ground-floor commercial space on a 1.75 gross acre site

Location: The project site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west, and a vacant parcel and commercial uses to the south.

Council District: 3

Assessor's Parcel Number: 259-46-040, -044, -045, -055, -056, -057, -058, -090 and -109

The environmental impacts of this project were addressed by three Environmental Impact Reports: the Final Program EIR entitled, "Diridon Station Area Plan," adopted by City Council Resolution No. 77096 on June 17, 2014 (SCH #2011092022), the Final Program EIR entitled "Envision San Jose 2040 General Plan" (GP2040) adopted by City Council Resolution No. 76041 on November 1, 2011 (SCH #2009072096), and the Supplemental EIR to the GP2040 adopted by City Council Resolution No. 77617 on December 2015, 2015 (SCH #2009072096). The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that, "A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred."

The following impacts were reviewed and found to be adequately considered by the EIRs:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology and Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazardous Materials | <input checked="" type="checkbox"/> Hydrology & Water Quality |

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Land Use | <input checked="" type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Population and Housing | <input checked="" type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input checked="" type="checkbox"/> Utilities & Service Systems | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Growth Inducing | <input checked="" type="checkbox"/> Cumulative Impacts | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

ANALYSIS

The Diridon Station Area Plan (DSAP) established a vision for Diridon station and the surrounding area in response to the planned extension of Bay Area Rapid Transit and High Speed Rail service to San José. The DSAP area is divided into three zones:

1. the Northern Zone which is generally north of The Alameda,
2. the Central Zone which is the core area centered on Diridon Station, and
3. the Southern Zone is generally between Park Avenue and Interstate 280.

The Envision San José 2040 General Plan (GP2040) provides capacity for the development of up to 470,000 new jobs and 120,000 new dwelling units through 2035. The City of San José also approved a Supplemental Environmental Impact Report (SEIR) for the Envision San José General Plan to include an updated greenhouse gas emissions analysis to the GP2040. In addition, the future growth projected under the DSAP was evaluated in the General Plan at a conceptual level and is a subset of the General Plan.

The proposed project was analyzed for environmental impacts resulting from a Special Use Permit to develop a two-building 123-unit mixed-use residential development with approximately 1,000 square feet of retail space located within the Southern Zone area, specifically in the Park/San Carlos subarea designated for mixed-used residential of the DSAP.

The type and intensity of the proposed development is consistent with the intent of the DSAP and the proposed project was found to be adequately analyzed in all CEQA resource areas by the DSAP Final Program Environmental Impact Report (FPEIR), GP2040 Final Program Environmental Impact Report (FPEIR), and the Supplemental Environmental Impact Report (SEIR).

The proposed project would not result to any new or substantially increased significant impacts. The proposed project would comply with all standard permit conditions and mitigation measures set forth in the Initial Study/Addendum Analysis and Mitigation Measure and Monitoring Report Program for this project. The proposed project, therefore, will not result in new impact or impacts of greater severity than those previously identified in the Diridon Station FPEIR, the Envision San Jose 2040 General Plan FPEIR, and the Envision San Jose 2040 General Plan SEIR.

Conclusion:

Given the proposed project description and knowledge of the project area, the City has concluded that the proposed project would not result in any new impacts that have not been previously disclosed; nor would it result in a substantial increase in the magnitude of any significant environmental impacts previously identified in the previously certified EIRs. For

these reasons, a supplemental or subsequent EIR is not required and an addendum to the EIRs has been prepared and the City of San José may take action on the proposed project as being within the scope of the Final Program EIR. This addendum will not be circulated for public review, but will be attached to the EIRs, pursuant to CEQA Guidelines §15164(c).

Harry Freitas, Director
Planning, Building and Code Enforcement

Meenaxi R. P.
Deputy

6/9/2016
Date

Project Manager: Thai-Chau Le

Attachments:

1. Park and Delmas Mixed-Use Residential Project (SP16-016) Initial Study/Addendum Analysis, dated June 2016.
2. Mitigation Monitoring and Reporting Program (MMRP) for project SP16-016, dated June 2016.

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Appendix D	GHG Reduction Strategy Conformance Checklist
Appendix E	Summary of Environmental Conditions Memorandum
Appendix F	Noise and Vibration Study

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 BACKGROUND INFORMATION

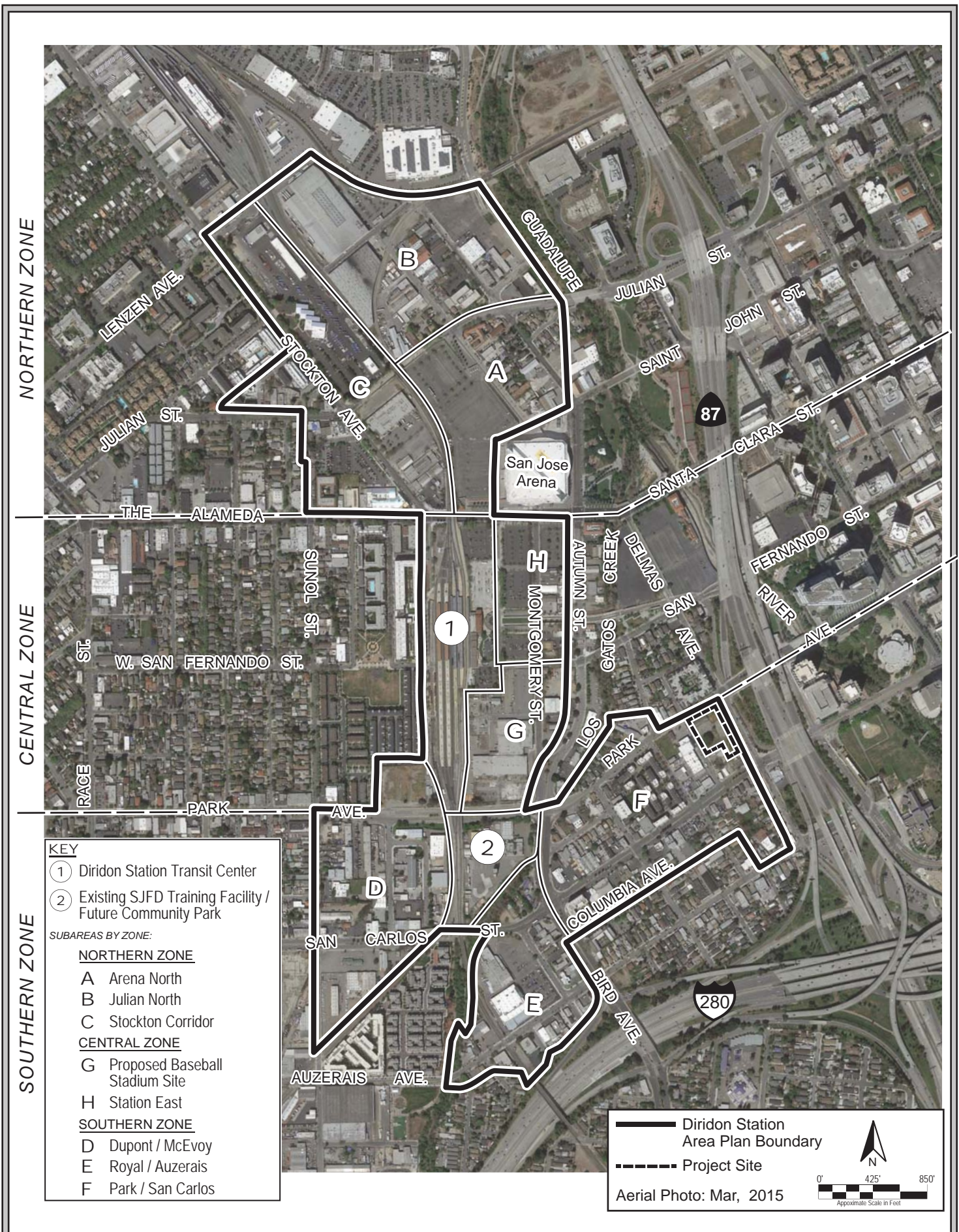
In November 2011, the City of San José approved the *Envision San José 2040 General Plan* (General Plan), which is a long-range program for the future growth of the City. The *Envision San José 2040 General Plan Final Environmental Impact Report* (General Plan FEIR, also approved in November 2011) was a broad range analysis of planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program-level document from which subsequent development consistent with the General Plan could tier from and/or addendize to. The project site is within the *Downtown* growth area designated by the General Plan. The General Plan FEIR evaluated growth of up to 10,360 dwelling units and 48,500 jobs in the *Downtown* growth area.

The *Downtown* land use designation was analyzed for up to 350 dwelling units per acre (DU/AC) and a floor area ratio (FAR) up to 15.0 (three to 30 stories) in the General Plan FEIR. This designation allows for office, retail, service, residential, and entertainment uses in the *Downtown* area at high intensities, unless incompatibility with other major policies within the General Plan. In November 2015, San José City Council approved an amendment to the *Downtown* land use designation, which increased the maximum allowed dwelling units from 350 to 800 dwelling units per acre and the maximum FAR from 15 to 30.¹

In June 2014, the City of San José adopted the *Diridon Area Station Plan* (DSAP), which established a vision for *Diridon* station and the surrounding area in response to the planned extension of *Bay Area Rapid Transit* and *High Speed Rail* service to San José. Future growth projected under the DSAP was evaluated in the General Plan at a conceptual level and is a subset of the General Plan. The DSAP area is divided into three zones: 1) the *Northern Zone* which is generally north of *The Alameda*, 2) the *Central Zone* which is the core area centered on *Diridon Station*, and the *Southern Zone* is generally between *Park Avenue* and *Interstate 280*. The proposed *Park and Delmas Mixed-Use Residential* project (current project) would develop a two-building 123-unit mixed-use residential development with approximately 1,000 square feet of retail space located within the *Southern Zone* of the DSAP area and in the *Park/San Carlos* subarea designated for mixed-used residential. Figure 1.1-1 shows the DSAP area and project site's location within this area.

In August 2014, the City of San José certified the *Diridon Station Area Plan Integrated Final Program Environmental Impact Report*, State Clearinghouse No. 2011092022 (DSAP FEIR) which evaluated the environmental effects of development under the DSAP in accordance with the *California Environmental Quality Act* (CEQA) and tiers off the General Plan FEIR. The project site was evaluated (at a program level) in the DSAP FEIR and the current project is consistent with the development assumptions in the DSAP FEIR. The project site has a *Downtown* land use designation under the DSAP and General Plan, which assumed a maximum development of up to 800 DU/AC and a FAR of up to 30.

¹ The amendment to the *Downtown* land use designation was adopted under City File Number GPT15-001.



DSAP BOUNDARIES, ZONES AND SUBAREAS

FIGURE 1.1-1

In December 2015, the City of San José approved the Supplemental Program Environmental Impact Report for the Envision San José 2040 General Plan (Supplemental General Plan EIR) which reevaluated the projected greenhouse gas emissions impacts of implementation of the City of San José's 2040 General Plan. No changes to the General Plan land use and transportation assumptions were proposed from what was evaluated in the General Plan FEIR.

The applicant is currently proposing a *Special Use Permit* and *Vesting Tentative Map* to allow the development of 123 residential attached units (in two buildings) and retail/restaurant space. The project would develop up to 74 residential units per acre and would have a Floor-Area-Ratio (FAR), i.e. the ratio of building area to lot area, of 2.2. The maximum building height for the proposed project 61 feet above ground surface at the top of the parapet. The proposed project is, therefore, consistent with the DSAP and General Plan land use designation of *Downtown* which allows for development up to 800 dwelling units per acre, a FAR of up to 30 (three to 30 stories), and a building height of up to 110 feet above ground surface. The project would retain its current *DC - Downtown Primary Commercial* zoning.

1.2 PURPOSE

This Initial Study of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et.seq.) and the regulations and policies of the City of San José.

The Initial Study evaluates the environmental impacts which may result from the implementation of the Park and Delmas Mixed-Use Residential Project (i.e., current project). This Initial Study confirms whether any new significant impacts or a substantial increase in the severity of previously identified impacts in the certified DSAP FEIR adopted in August 2014, General Plan FEIR adopted in November 2011, and the Supplemental General Plan EIR approved in December 2015, would result from the current project.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Park and Delmas Mixed-Use Residential Project

2.2 PROJECT LOCATION

The project site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west and a vacant parcel and commercial uses to the south. Figures 2.2-1, 2.2-2 and 2.2-3 show the location of the project site and surrounding uses.

2.3 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Planning Division
City Hall, Third Floor
200 East Santa Clara Street
San José, CA 95113

Environmental Review

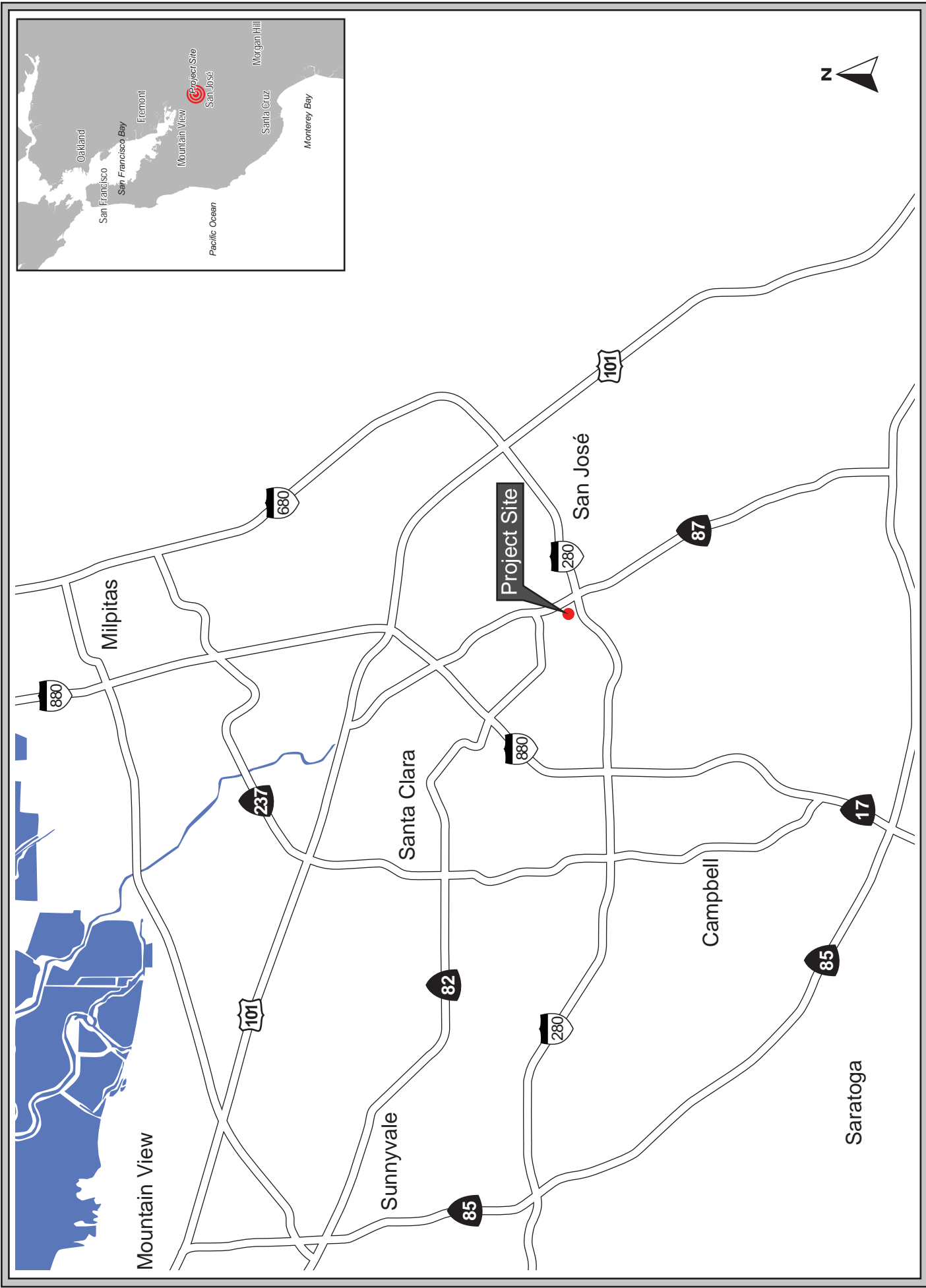
Thai-Chau Le, Planner I
Environmental Project Manager
Phone: (408) 535-5658
Email: Thai-Chau.Le@sanjoseca.gov

Project Management

Tracy Tam, Planner
Project Manager
Phone: (408) 535-3839
Email: Tracy.Tam@sanjoseca.gov

2.4 PROJECT APPLICANT

Dominic Boitano, Senior Project Manager
Park Delmas Investors, LLC
2185 The Alameda, Suite 150
San José, CA 95126
Phone: (408) 345-1767
Email: DBoitano@robsonhomes.com



REGIONAL MAP

FIGURE 2.2-1

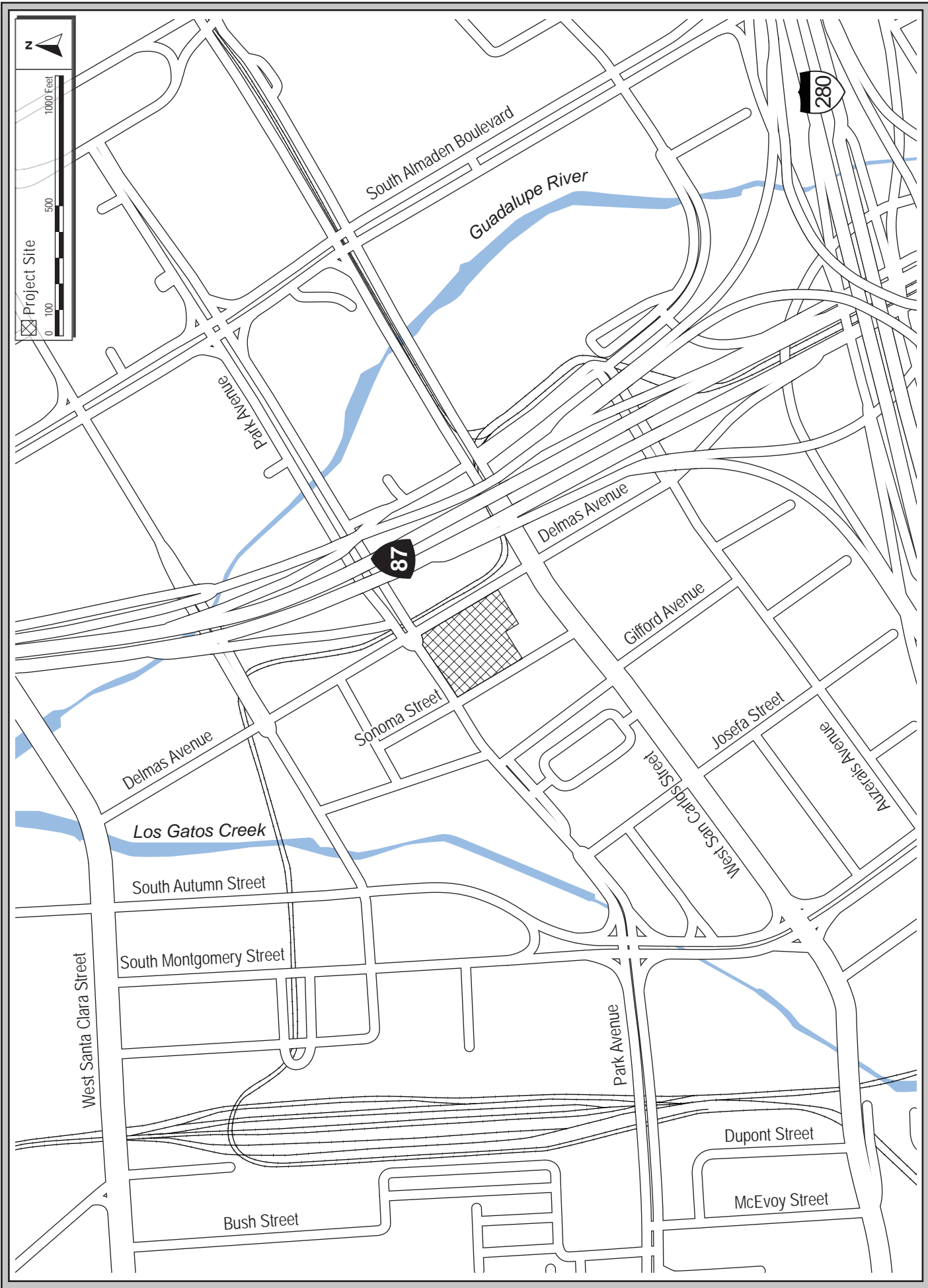


FIGURE 2.2-2

VICINITY MAP



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.2-3

2.5 ASSESSOR'S PARCEL NUMBERS

259-46-040, -044, -045, -055, -056, -057, -058, -090 and 259-46-109

2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

2.6.1 Zoning District

The project site is located in the *DC - Downtown Primary Commercial* zoning district.

2.6.2 General Plan Land Use Designation

The project site has a General Plan land use designation of *Downtown*.

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS

The project would require a *Special Use Permit* and *Vesting Tentative Map* for the development of a 123- unit mixed-use residential development.

SECTION 3.0 PROJECT DESCRIPTION

3.1 OVERVIEW

This Initial Study provides project-level CEQA analysis for a *Special Use Permit* and *Tentative Map* to allow the demolition of the existing vacant office building on the northwest corner of the project site (APN 259-46-058), removal of six City ordinance-sized trees and two non-ordinance-sized trees, and the development of a 123-unit mixed-use residential development on a 1.72-acre property (APNs 259-46-040, -109, -044, -045, -058, -057, -056, -055, and -090) located in the Diridon Station area in San José.

3.1.1 Setting

The project site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west, and a vacant parcel and commercial uses to the south. The site is mostly vacant with a one-story, approximately 4,200 square foot office building located on the corner of Park Avenue and Sonoma Street. The site also consists of landscaping from former development including eight non-native trees and one native coast live oak tree, as well as concrete paved surfaces. The project site is located in the *DC - Downtown Primary Commercial* zoning district and has a General Plan land use designation of *Downtown*.

3.2 PROPOSED DEVELOPMENT

3.2.1 Site Design

The project would develop 123 attached residential units in two buildings (one four-stories and one five-stories tall), with one level of below grade parking. The first building (Building A) would be five stories and would front Park Avenue and the second building (Building B) would be four stories and face Delmas Avenue. An approximately 1,000 square foot restaurant café would be located on the ground floor of Building A on the corner of Park Avenue and Delmas Avenue. A leasing office, lobby, and clubhouse (in Building A) and fitness center (in Building B) would also be located on the ground floor of the buildings. Residential units would be located on all levels of both buildings. Figures 3.2-1 and 3.2-2 show the project's site plan and level one floor plan.

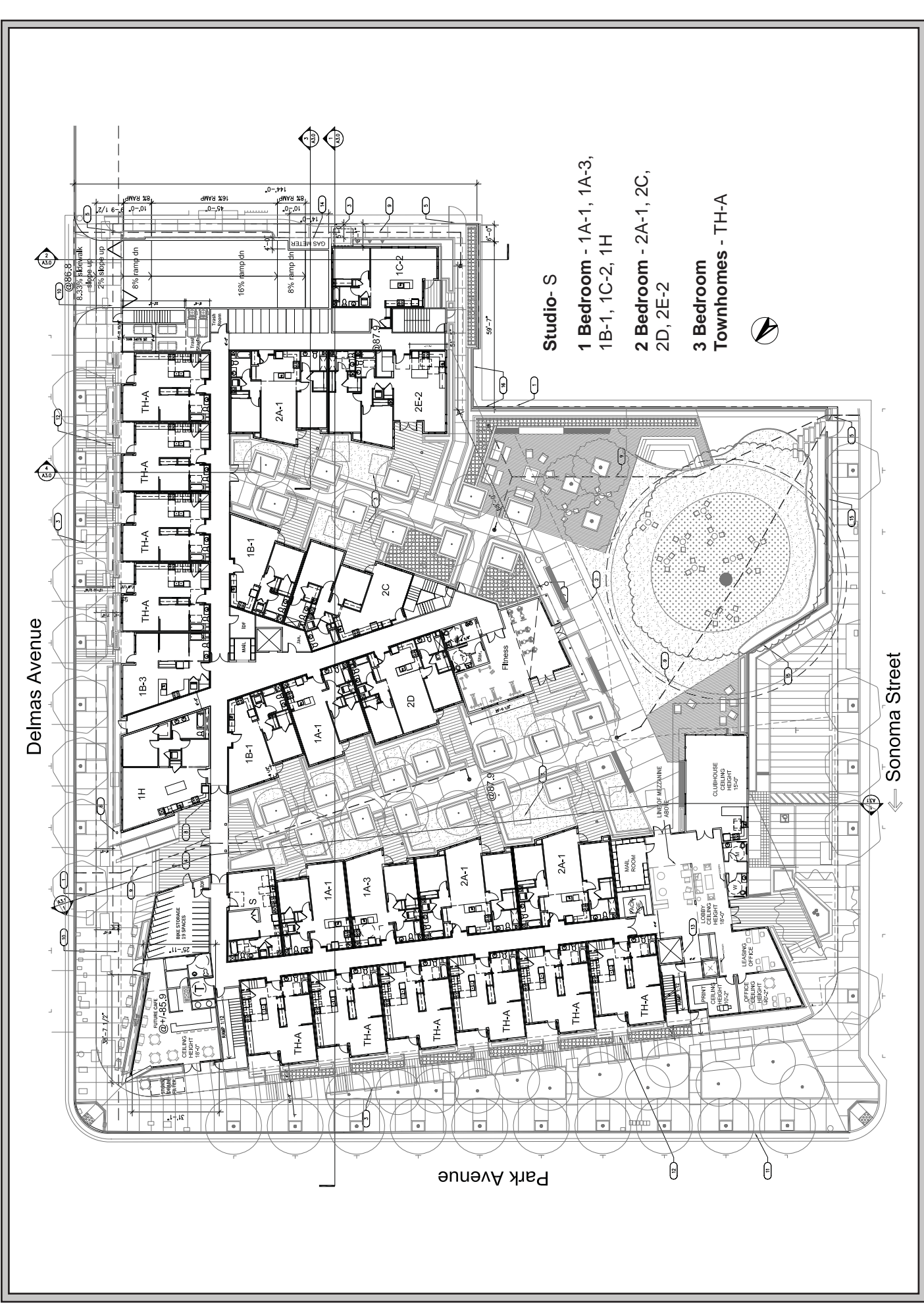
The proposed development would include landscaping and an approximately 22,000 square foot common open space area which would include a lawn area, fire pit, an outdoor kitchen area and outdoor seating to the west of the buildings and off Sonoma Street. Trees to be planted (approximately 40 trees) may include London plane, crape myrtle, and maple trees as well as a native valley oak tree. The large existing oak tree on-site would remain as a part of the common outdoor area (Figure 3.2-3 shows the project's landscape plan).

The maximum height of Building A (five stories) would be approximately 62 feet tall at the top of parapet. The maximum height of Building B (four stories) would be 55 feet tall at the top of the roof. The proposed building elevations are shown in Figures 3.2-4 and 3.2-5. The proposed Building B would be set back five to 10 feet from the adjacent non-residential property lines (e.g., one property is vacant and the other is commercial) to the south of the project site.



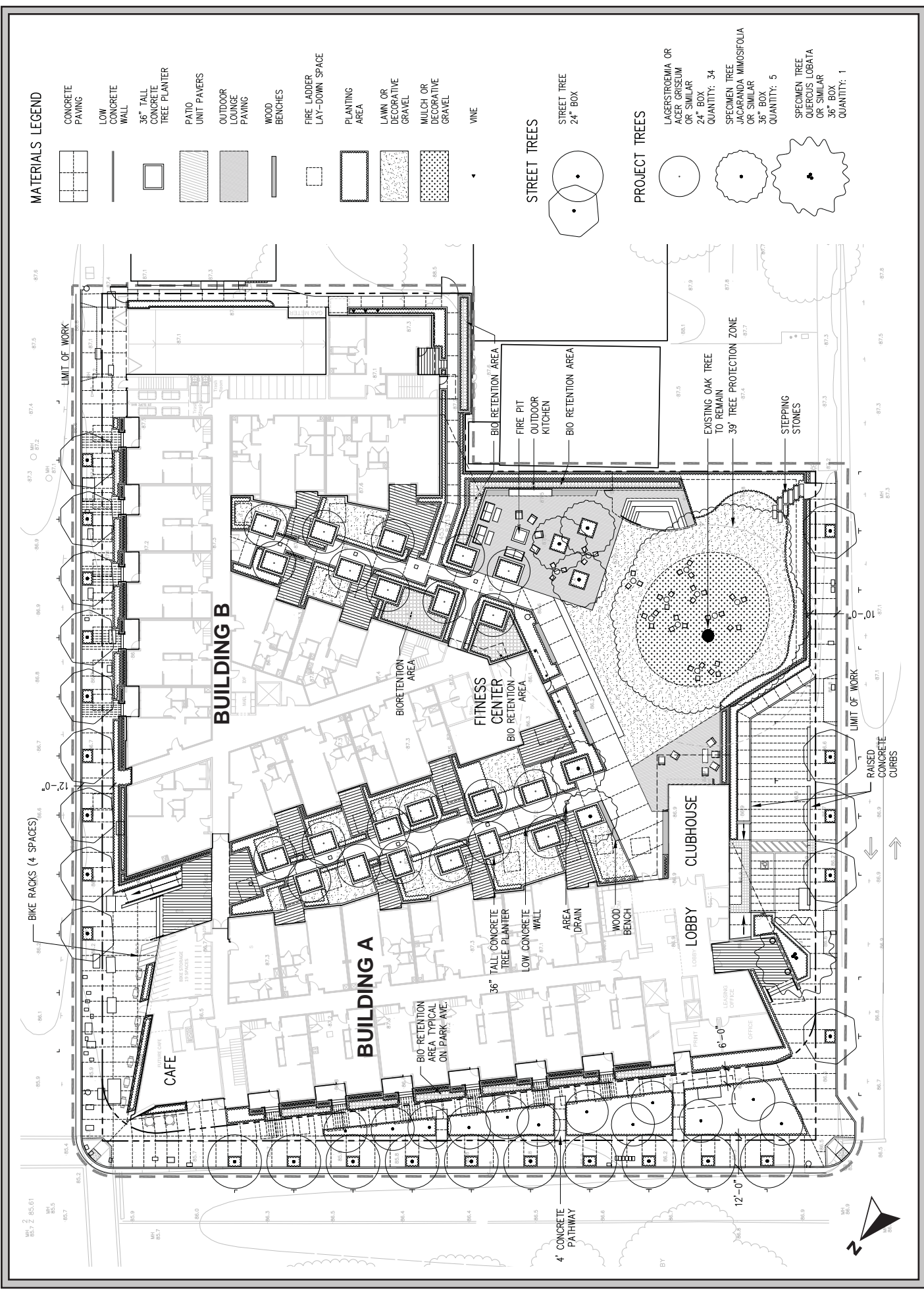
FIGURE 3.2-1

SITE PLAN



- Studio - S**
- 1 Bedroom - 1A-1, 1A-3, 1B-1, 1C-2, 1H**
- 2 Bedroom - 2A-1, 2C, 2D, 2E-2**
- 3 Bedroom Townhomes - TH-A**

LEVEL 1 FLOOR PLAN **FIGURE 3.2-2**



MATERIALS LEGEND

- CONCRETE PAVING
- LOW CONCRETE WALL
- 36" TALL CONCRETE TREE PLANTER
- PATIO UNIT PAVERS
- OUTDOOR LOUNGE PAVING
- WOOD BENCHES
- FIRE LADDER LAY-DOWN SPACE
- PLANTING AREA
- LAWN OR DECORATIVE GRAVEL
- MULCH OR DECORATIVE GRAVEL
- VINE

STREET TREES



PROJECT TREES

- LACINOSTROEMIA OR ACER GRiseum OR SIMILAR 24" BOX QUANTITY: 34
- SPECIMEN TREE JACARANDA MIMOSIFOLIA OR SIMILAR 36" BOX QUANTITY: 5
- SPECIMEN TREE QUERCUS LOBATA OR SIMILAR 36" BOX QUANTITY: 1

FIGURE 3.2-3

LANDSCAPE PLAN



FIGURE 3.2-4

PARK AND DELMAS BUILDING ELEVATIONS



Delmas Avenue & Park Avenue Corner Perspective



Park Avenue & Sonoma Corner Perspective

BUILDING ELEVATION PERSPECTIVES

FIGURE 3.2-5

3.2.1.1 Site Access and Circulation

Vehicular access to the below grade parking would be via a ramp off of Delmas Avenue. The garage level would be located below the ground floors of both Buildings A and B and would provide 155 vehicular parking spaces, 12 bicycle stalls, and 31 motorcycle stalls. The drive aisles in the garage would be at 26 to 27 feet wide and the vehicular ramp would be 24 feet wide. On-grade parking would include three temporary parking spaces and a passenger loading zone located off of Sonoma Street, as well as 19 on-grade bicycle stalls adjacent to the future retail/restaurant space on the corner of Park Avenue and Delmas Avenue.

3.2.1.2 Utilities

Stormwater runoff from the site would be collected via new storm drains which would be directed to bio retention basins/overflow drains and a storm drain media filter vault (located in the northwest corner of the project site). The stormwater directed to the media filter would be treated then directed to the City's existing 15-inch storm drain on Park Avenue. Stormwater would also be treated by stormwater bio-treatment planters on-site (refer to Figure 3.2-6 for the stormwater control plan).

The project site would have new four- to six- inch sanitary sewer lines which would connect to existing eight-inch sewer lines on Park Avenue, Delmas Avenue, and Sonoma Street. A new six-inch water line and two new fire hydrants would connect to the existing 12-inch water line on Delmas Avenue.

Electricity and gas would be provided by Pacific Gas & Electric and solid waste would be collected by Green Team of San José.

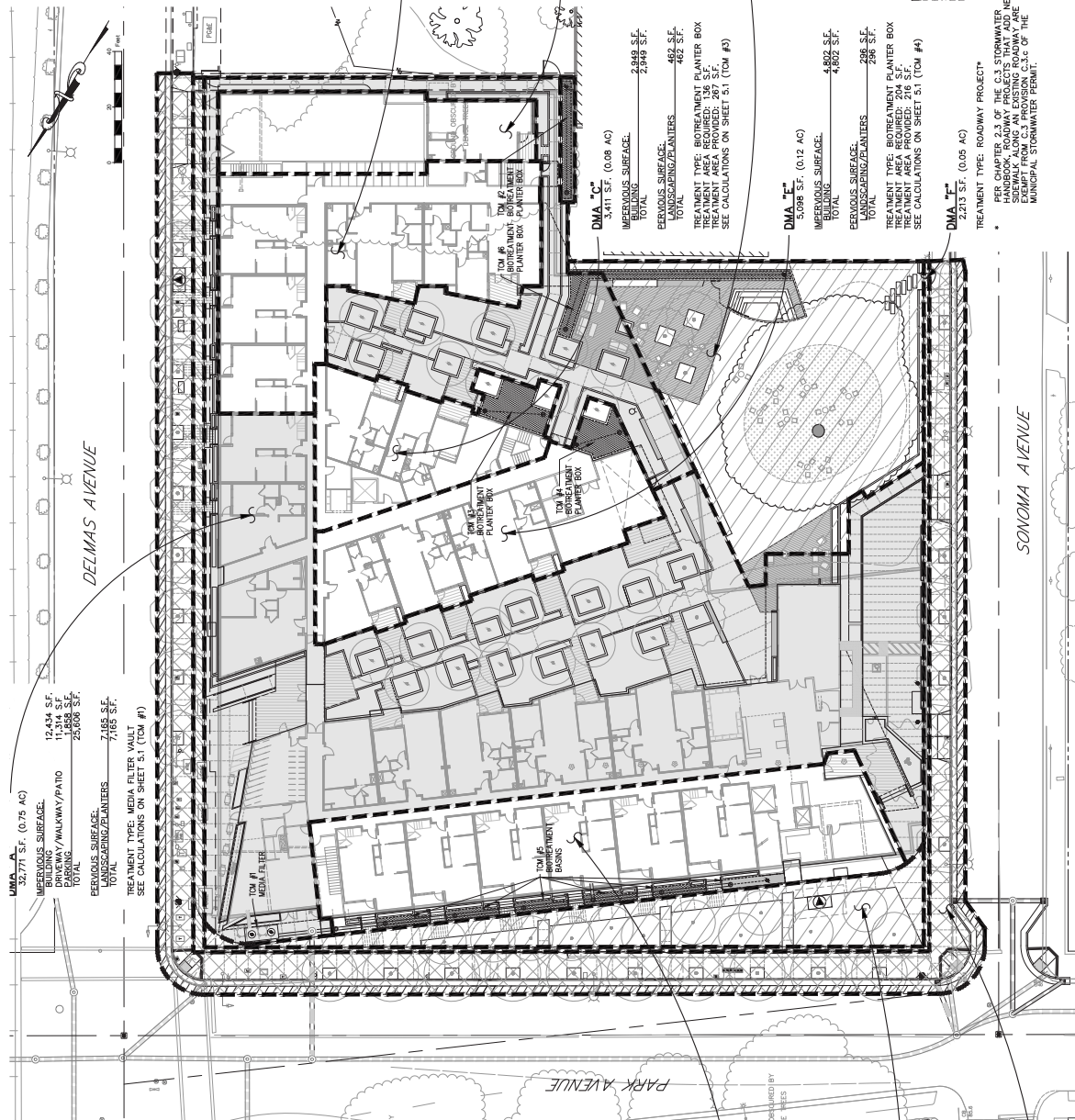
3.2.3 Demolition and Construction

The duration of demolition of the existing building and construction of the proposed development would total approximately 21 months. The below grade garage would require excavation and off-haul of approximately 22,000 cubic yards of soil.

3.2.4 Project Approval Process

The project would require a *Special Use Permit*, which would allow a commercial condominium and the development of up to 123 residential units, the demolition of an existing approximately 4,200 square-foot vacant office building, the removal of six ordinance-sized trees and two non-ordinance-sized trees. The project would also require a *Vesting Tentative Map* to reconfigure the existing parcels to allow for the proposed residential and commercial condominium uses.

- LEGEND**
- BIOTREATMENT BASIN/PLANTER BOX
 - - - PROJECT BOUNDARY
 - DRAINAGE MANAGEMENT AREA (DMA)
 - BOUNDARY
 - AREAS TREATED BY BIOTREATMENT BASIN/PLANTER BOX (DMA B, C, E, J, K & N)
 - AREAS TREATED BY MEDIA FILTER VAULT (DMA A)
 - AREAS OF MAINTENANCE PROJECT (DMA G)
 - AREAS OF ROADWAY PROJECT (DMA F)
 - AREAS THAT ARE NOT TREATED BY BIOTREATMENT (DMA D & H)
 - PERVIOUS PAVEMENT SEE LANDSCAPE PLANS & SHEET 5.1
 - BIOTREATMENT BASIN AND PLANTER AREAS



DMA "A"
 32,771 S.F. (0.75 AC)
 IMPERVIOUS SURFACE:
 BUILDING 12,434 S.F.
 WALKWAY/PATIO 1,858 S.F.
 PARKING 25,606 S.F.
 TOTAL 39,898 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 7,165 S.F.
 TOTAL 7,165 S.F.
 TREATMENT TYPE: MEDIA FILTER VAULT
 SEE CALCULATIONS ON SHEET 5.1 (TCM #1)

DMA "K"
 6,847 S.F. (0.16 AC)
 IMPERVIOUS SURFACE:
 BUILDING 6,847 S.F.
 TOTAL 6,847 S.F.
 TREATMENT TYPE: BIOTREATMENT PLANTER BOX
 TREATMENT AREA PROVIDED: 274 S.F.
 TREATMENT AREA REQUIRED: 274 S.F.
 SEE CALCULATIONS ON SHEET 5.1 (TCM #8)

DMA "L"
 3,207 S.F. (0.07 AC)
 IMPERVIOUS SURFACE:
 BUILDING 3,073 S.F.
 TOTAL 3,073 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 134 S.F.
 TOTAL 134 S.F.
 TREATMENT TYPE: BIOTREATMENT PLANTER BOX
 TREATMENT AREA PROVIDED: 124 S.F.
 TREATMENT AREA REQUIRED: 124 S.F.
 SEE CALCULATIONS ON SHEET 5.1 (TCM #2)

DMA "D"
 9,279 S.F. (0.21 AC)
 IMPERVIOUS SURFACE:
 WALKWAY/SEA 270 S.F.
 TOTAL 270 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 1,812 S.F.
 TOTAL 1,812 S.F.
 TREATMENT TYPE: SELF-RETAINING PERVIOUS/PERVIOUS PAVEMENT
 0.65:1 (2:1 MAX. REQUIRED)

DMA "E"
 5,098 S.F. (0.12 AC)
 IMPERVIOUS SURFACE:
 TOTAL 4,892 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 296 S.F.
 TOTAL 296 S.F.
 TREATMENT TYPE: BIOTREATMENT PLANTER BOX
 TREATMENT AREA PROVIDED: 216 S.F.
 SEE CALCULATIONS ON SHEET 5.1 (TCM #3)

DMA "C"
 3,411 S.F. (0.08 AC)
 IMPERVIOUS SURFACE:
 TOTAL 2,949 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 462 S.F.
 TOTAL 462 S.F.
 TREATMENT TYPE: BIOTREATMENT PLANTER BOX
 TREATMENT AREA PROVIDED: 397 S.F.
 SEE CALCULATIONS ON SHEET 5.1 (TCM #9)

DMA "F"
 2,213 S.F. (0.05 AC)
 TREATMENT TYPE: ROADWAY PROJECT*

DMA "G"
 11,867 S.F. (0.27 AC)
 TREATMENT TYPE: MAINTENANCE PROJECT

DMA "H"
 3,535 S.F. (0.08 AC)
 IMPERVIOUS SURFACE:
 BUILDING 7,130 S.F.
 TERRACES 7,865 S.F.
 TOTAL 14,995 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 678 S.F.
 TOTAL 678 S.F.
 TREATMENT TYPE: BIOTREATMENT BASIN
 TREATMENT AREA PROVIDED: 348 S.F.
 TREATMENT AREA REQUIRED: 348 S.F.
 SEE CALCULATIONS ON SHEET 5.1 (TCM #5)

DMA "I"
 1,890 S.F. (0.04 AC)
 IMPERVIOUS SURFACE:
 TOTAL 1,846 S.F.
 PERVIOUS SURFACE:
 LANDSCAPING/PLANTERS 1,990 S.F.
 TOTAL 1,990 S.F.
 TREATMENT TYPE: SELF-RETAINING PERVIOUS/PERVIOUS PAVEMENT
 0.65:1 (2:1 MAX. REQUIRED)

DMA "J"
 11,867 S.F. (0.27 AC)
 TREATMENT TYPE: MAINTENANCE PROJECT

NOTE: THE SIMPLIFIED SIZING METHOD (THE 4R RULE) HAS BEEN USED TO SIZE THE BIOTREATMENT BASINS AND PLANTER BOXES. THIS METHOD ASSUMES THAT THE BIOTREATMENT AREAS WILL BE MAINTAINED AND OPERATED AS INTENDED. THE DESIGNER WILL BE RESPONSIBLE FOR VERIFYING THAT THE BIOTREATMENT AREAS WILL BE MAINTAINED AND OPERATED AS INTENDED. THE DESIGNER WILL BE RESPONSIBLE FOR VERIFYING THAT THE BIOTREATMENT AREAS WILL BE MAINTAINED AND OPERATED AS INTENDED. THE DESIGNER WILL BE RESPONSIBLE FOR VERIFYING THAT THE BIOTREATMENT AREAS WILL BE MAINTAINED AND OPERATED AS INTENDED.

PER CHAPTER 2.3 OF THE C.S. STORMWATER HANDBOOK, ROADWAY PROJECTS THAT ADD NEW IMPERVIOUS SURFACE SHALL BE EXCEPT FROM C.3.1 PROVISION C.3.4 OF THE MUNICIPAL STORMWATER PERMIT.

STORMWATER CONTROL PLAN

FIGURE 3.2-6

SECTION 4.0 SETTING, ENVIRONMENTAL CHECKLIST AND IMPACTS

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

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. Mitigation Measures are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370).

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

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

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss project effects related to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk to future residents or in a high noise environment.

4.1 AESTHETICS

The project site is mostly vacant with an unoccupied one-story office building located on the corner of Park Avenue and Sonoma Street. The site also consists of a lawn area, shrubs, nine trees including tree of heaven, redwood, fig, pepper trees, and one large native coast live oak tree, as well as concrete paved surfaces.

The one-story office building was constructed in the 1950s and has a gable roof with wood shingles. The front façade of the building (facing Park Avenue) is wood-framed covered with wooden siding and brick at the base of the building. A brick structure penetrates from the base of the building to above the roof at the westernmost unit of the building. Views of the project site are shown in Photos 1-3 below.

4.1.1.2 *Surrounding Visual Character*

The project site is surrounded by existing urban development and roadways. The site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west, and a vacant parcel and commercial uses to the south. The site is surrounded by a modern three-story condominium development (comprised of stucco and wood) across Park Avenue to the north, the elevated State Route (SR) 87 and light rail transit tracks across Delmas Avenue to the east, and older commercial uses including auto repair and commercial warehouse buildings to the south and west. Views of the project site's surroundings are shown in Photos 4-6.

4.1.1.3 *Scenic Views*

The project site is flat and provides limited scenic views of the Diablo foothills to the east and Santa Cruz Mountains to the west. Prominent views of the mountains are limited since buildings, trees and infrastructure (e.g., utility lines) obscure viewpoints. The project area has been developed and no natural scenic resources such as rock outcroppings are present on the site or in the project area, other than the large, mature oak tree present on the site. Existing Downtown landmarks (which are a part of the Downtown skyline) such as the historic Bank of America Building, De Anza Hotel, SAP Center, Fairmont Hotel, City Hall and San José State University Campus, are not visible from the project site or its vicinity, due to existing urban development surrounding the area.

Scenic Corridors

The project site is not located along a state-designated scenic highway. The nearest state-designated highway is Interstate 280 (I-280), approximately 2.5 miles east of the site (at the SR 17 interchange).

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial. The DSAP requires new development adjacent to Gateways and designated freeways to consist of high-quality architecture and contribute to a positive image of San José. The nearest Gateway to the project site is 0.2 miles west of the site; this Gateway is a segment located on South Montgomery Street/Bird Avenue (which transects I-280) from Park Avenue to Coe Avenue. Due to the flat



Photo 1: View of unoccupied office building on-site from Park Avenue, facing south



Photo 2: View of the site and large oak tree from Delmas Avenue, facing west



Photo 3: View of the project site from Sonoma Street, facing east



Photo 4: View of the adjacent condominiums off Park Avenue, facing north



Photo 5: View of Park Avenue from the northern boundary of the site, facing east



Photo 6: View of adjacent automobile repair business on Sonoma Street, facing east

topography of the project site and surrounding urban development, the project site is not visible from this Gateway segment.

The City has designated SR 87 from the US 101 interchange to the SR 85, and I-280 from the I-880 intersection to Fair Oaks Avenue in Sunnyvale as Urban Throughways. The nearest SR 87 Urban Throughway segment to the project site is 200 feet east of the site and the I-280 Urban Throughway segment is 0.3 miles south of the site. The site is visible from the elevated SR 87 freeway.

4.1.1.5 *Applicable Plans, Policies, and Regulations*

State Scenic Highways Program

The California Department of Transportation designates state scenic highways, based upon how much of the natural landscape can be seen by travelers, the scenic quality of the landscape, and the extent that development modifies traveler's enjoyment of the view. The nearest state-designated highway is Interstate 280 (I-280), approximately 2.5 miles east of the site (at the SR 17 interchange).²

City of San José Policies

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

Residential Design Guidelines

The Residential Design Guidelines establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The *Residential Design Guidelines* address a variety of areas, including street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The

²California Department of Transportation. *California Scenic Highway Program*. Available at: <http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/scenic_hwy.htm>. Accessed October 15, 2015. >.

segment of Bird Avenue over I-280 adjacent to the DSAP area (approximately 1,500 feet from the site, at which point the project site is not visible due to intervening structures) is designated as a gateway for scenic purposes.

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

General Plan Policies: Aesthetics	
Attractive City	
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
Policy CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
Downtown Urban Design	
Policy CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown’s status as a major urban center.

General Plan Policies: Aesthetics	
Policy CD-6.8	Recognize Downtown as the hub of the County’s transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest and by fostering active uses and avoiding prominence of vehicular parking at the street level.
Policy CD-6.9	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
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.
Attractive Gateways	
Policy CD-10.2	Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José.
Policy CD-10.3	Require that development visible from freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) is designed to preserve and enhance attractive natural and man-made vistas.

4.1.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	New Than Significant Impact	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:							
1. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1-3
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,2,4
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,2

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR - Aesthetics Conclusions

The DSAP FEIR concluded that development under the DSAP would not result in a substantial adverse effect on a scenic vista or resource. Implementation of the DSAP Design Guidelines, General Plan policies and existing regulations would avoid substantial degradation of the existing visual character or quality of the DSAP area and its surroundings. Additionally, development under the DSAP would not result in significant light and glare impacts.

4.1.2.1 *Impact to Scenic Views or Scenic Resources*
(Checklist Items 1 and 2)

The project site is not located along a state scenic highway or designated rural scenic corridor. Views of the project area site are limited to the immediate area. The site can be seen briefly by passersby on the elevated SR 87 Urban Throughway along the segment approximately 200 feet east of the project site.

The glimpse of the proposed building that would be seen by drivers on the elevated segment of SR-87 would not obstruct larger views of the Santa Cruz Mountains (to the southwest) that are in the direct line-of-sight of drivers on this freeway segment. Since key Downtown landmarks are to the east of the SR 87 Urban Throughway and the proposed development is the west of the SR 87, the proposed project would not block views of the Downtown skyline (i.e., Downtown landmarks). Due to the distance and surrounding landscaping and urban development, views from other City-designated Urban Throughways or Gateways would be limited. For these reasons, the proposed project would not substantially block scenic views.

Trees are considered visual resources in urban environments since they contribute to aesthetic interest and character. Eight non-native trees would be removed from the site and the large native oak tree would remain a part of the proposed development’s common outdoor area. Measures would be implemented to protect the large oak tree during construction (refer to Section 4.4, *Biological Resources*). Based on the Arborist Report completed for the project site (refer to Appendix B), the eight non-native trees to be removed have structural defects and are not considered to be in good health, and for these reasons, are not considered scenic resources. Additionally, approximately 60 trees would be planted in accordance with City policies to offset the aesthetic effects of tree removal. The trees to be planted may include London plane, crape myrtle, and maple trees as well as a native valley oak tree.

Redevelopment of this site, therefore, would not have a significant adverse effect on a scenic vista or damage scenic resources within a state scenic highway.

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

4.1.2.2 *Change in Visual Character*
(Checklist Item 3)

The project site is developed with an existing unoccupied single-story office building (constructed in the 1950s). The project would construct a four- and five-story residential development, approximately 61-foot tall building (at the top of parapet) that would be built up to the sidewalks on the Park Avenue and Delmas Avenue frontages. The building facades would be primarily comprised of cement, metal paneling, brick, and vinyl windows with metal railings attached.

Although the proposed building would represent visual change from the existing low-intensity development on the site, the proposed development is consistent with the type of development planned (residential) for the Southern Zone, Park/San Carlos Subarea disclosed in the DSAP FEIR. The proposed development would be consistent with the DSAP's Design Guidelines. Consistent with the DSAP Guidelines, the proposed residential buildings would be oriented to the street and would have a modern architectural style. Additionally, the development would include an active 1,090 square foot retail/restaurant area on the ground floor of Building A (at the corner of Park Avenue and Delmas Avenue). The proposed development would also have an underground parking structure to reduce surface street/lot parking. Parking areas (with the exception of three parking spaces at the parking loading zone off of Sonoma Street) would be located within the interior of the development, shielding these areas from the street frontage and the street environment. Consistent with the DSAP, the proposed development would enhance the visual character of the area by redeveloping an underutilized property.

The proposed residential development (with a 61 feet maximum height at the top of parapet) would be four and five stories and would be consistent with the maximum height allowed (110 feet tall) for the Park/San Carlos subarea in the DSAP. The adjacent three-story condominium development is north of the site across Park Avenue. The adjacent condominium building is modern and mainly comprised of wood siding and gable roofs. The surrounding areas to the west, south and north are comprised of older one- to two-story residential and commercial uses. The proposed project's consistency with the DSAP's height limits provides an adequate transition between the existing neighborhood (with buildings ranging from one to three stories) and the high rise buildings in the Downtown area east of SR 87.

Although the proposed development would alter the appearance of the project area, the implementation of the DSAP Design Guidelines and General Plan policies would avoid substantial degradation of the existing visual character and quality of the area and its surroundings.

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

4.1.2.3 ***Light and Glare Impacts***
(Checklist Item 4)

As discussed above, development on the project site would be visible from the immediate area and SR 87. The proposed development would include lighting fixtures along the perimeter of the buildings (along Park Avenue and Delmas Avenue), in between the buildings, and within the common outdoor area. Although the proposed project is located within the Downtown area, the proposed project would comply with the City Council's Private Outdoor Lighting Policy 4-3, which requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. The final lighting plans would be reviewed subsequent to approval of the Special Use Permit. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 **Conclusion**

Implementation of the proposed project would have the same less than significant aesthetic impact as previously identified in the DSAP FEIR. With the implementation of DSAP Design Guidelines and General Plan Policies, the proposed project would not result in significant impacts to the visual character to the site and its surroundings, scenic resources or vistas, nor would the project create substantial light or glare. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The project site is mostly vacant with an office building located on the corner of Park Avenue and Sonoma Street. The site also consists of landscaping including eight non-native trees and one native coast live oak tree, as well as concrete paved surfaces. The site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west, and a vacant parcel and commercial uses to the south. There are no agricultural or forestry resources in the area. The project site is zoned *DC - Downtown Primary Commercial*, which allows for residential and commercial uses.

4.2.1.2 *Agricultural Resources*

The California Department of Conservation manages the Farmland Mapping and Monitoring Program to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality and the highest quality land is designated as *Prime Farmland*. The project site is not designated as *Prime Farmland* or other farmland, and is not subject of a Williamson Act contract.³ The site is designated as *Urban and Built-Up Land*, which is defined as land occupied with a building density of at one unit to 1.5 acres or approximately six structures per 10-acre parcel. Common examples of *Urban and Built-Up Land* are residential, industrial, commercial purposes, golf courses, landfills, airports, and other utility uses.⁴

4.2.1.3 *Forestry Resources*

Based on Section 12220 (g) of the Public Resources Code, forest land is defined as land that supports 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. The project site is not considered a forestry resource since the site does not support 10 percent native tree cover. There is one existing native (coast live oak tree) on the project site.

Based on Section 4526 of the Public Resources Code, timberland is land designated by the State Board of Forestry and Fire Protection as experimental forestland, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. The project site is not designated as timberland and is, therefore, not a timberland resource.

³ Agricultural lands in California can be protected from development and reserved for agricultural purposes or open-space conservation under the California Land Conservation Act, commonly known as the Williamson Act.

⁴ California Department of Conservation. *Santa Clara County Important Farmland 2012*. August 2014.

4.2.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
4. Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5

DSAP FEIR - Agricultural and Forestry Resources Conclusions

The DSAP FEIR identified that there would be no impacts to agricultural resources from future development under the DSAP. Only the Los Gatos Creek corridor was considered a potential forest land since it supports at least 10 percent native tree species and provides public benefits such as biological diversity. The future development under the DSAP would result in a less than significant impact on forestry resources.

4.2.2.1 *Agricultural and Forest Resource Impacts*

Agricultural Resources (Checklist Questions 1-2)

The project site is designated as *Urban and Built-Up Land* in the Santa Clara County Important Farmland Map (2012)⁵ and zoned for urban uses. Therefore, the site would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to a non-agricultural use. The site is not designated, used, or zoned for agricultural purposes and is not subject to a Williamson Act contract. Given that the site is located in an urban area, and the site designation as *Urban and Built-Up Land* in the Santa Clara County Important Farmland Map, residential development of the project site would not result in impacts to agricultural resources. The project would not result in impacts to agricultural resources and no agricultural resources were identified in the DSAP FEIR.

[Same Impact as Approved Project (No Impact)]

Forestry and Timberland Resources (Checklist Questions 3-5)

The site is not designated, used, or zoned for forest or timberland purposes. Given that the site is not located within the Los Gatos Creek Corridor (the only potential forestry resource within the DSAP area), residential development of the project site would not result in impacts to forestry resources.

The DSAP FEIR did not identify timberland resources within the DSAP area. The project would not result in any new or more significant impacts to forestry or timberland resources than identified in the DSAP FEIR. **[Same Impact as Approved Project (No Impact)]**

4.2.3 **Conclusion**

The proposed project would not result in any new or more significant impacts to agricultural, forestry or timberland resources on the project site or project area than addressed in the DSAP FEIR.

[Same Impact as Approved Project (No Impact)]

⁵ California Department of Conservation, Division of Land Resource Protection. *Santa Clara County Important Farmland 2012*. Published August, 2014. Available at: <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/sc112.pdf>. Accessed December 2, 2014.

4.3 AIR QUALITY

The following discussion is based in part on an Air Quality and GHG Assessment prepared by *Illingworth & Rodkin, Inc.* in October 2015. A copy of this report is attached as Appendix A.

4.3.1 Setting

4.3.1.1 *Climate and Topography*

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. This portion of the Santa Clara Valley is bounded to the north by the San Francisco Bay and the Santa Cruz Mountains to the southwest and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

Pollutants in the air can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

4.3.1.2 *Regional and Local Criteria Pollutants*

Major criteria pollutants, listed in "criteria" documents by the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and state standards for PM₁₀ and PM_{2.5}. The area is considered attainment or unclassified for all other pollutants.

4.3.1.3 *Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter*

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air. However, they can result in adverse chronic health effects if exposure to low concentrations occurs for long periods.

Fine Particulate Matter (PM_{2.5}) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to PM_{2.5} can cause a wide range of health effects.

Common stationary source types of TACs and PM_{2.5} include gasoline stations, dry cleaners, and diesel backup generators which are subject to permit requirements. The other, often more significant, common source is motor vehicles on freeways and roads.

4.3.1.4 *Sensitive Receptors*

The City of San José is within the San Francisco Bay Area Air Quality Management District (BAAQMD). BAAQMD is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area.

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medical clinics. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs.

The closest sensitive receptors to the project site are residences approximately 60 feet to the north and across Park Avenue, beyond Sonoma Street to the west (approximately 200 feet to west) and a single-family residence 100 feet south of the project site. Other residences are located south of W. San Carlos Street. The project would include new sensitive receptors.

4.3.1.5 *Odors*

Odors are generally regarded as an annoyance rather than a health hazard. The ability to detect odors varies considerably among the population and people may have different reactions to the same odor.

The BAAQMD CEQA Guidelines provide a list of recommended odor screening distances for specific odor-generating facilities. The DSAP FEIR does not identify any potential odor sources in the DSAP area or at the project site.

4.3.1.6 *Applicable Plans, Policies and Regulations*

Envision San José 2040 General Plan

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

General Plan Policies: Air Quality	
Air Pollutant Emission Reduction Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Toxic Air Contaminants Policies and Actions	
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
Action MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.
Objectionable Odor Policies	
Policy MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
Construction Air Emission Minimization Policies	
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Action MS-13.4	Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines.

4.3.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,7
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,8,9
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,8,9
4. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,8,9
5. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,8

DSAP FEIR – Air Quality Conclusions

The DSAP FEIR identified that build out under the DSAP would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors. The project would not conflict with or obstruct implementation of the 2010 CAP (applicable air quality plan).

As disclosed in the DSAP FEIR, build out of the DSAP would, however, result in a net increase in ROG and NO_x in the San Francisco Bay Area, contributing to existing violations of ozone standards, which is a significant unavoidable cumulative impact. Build out of the DSAP would result in a cumulatively considerable contribution to the significant impact to regional air quality; therefore build out of the DSAP would result in a significant unavoidable impact to regional air quality.

4.3.2.1 *Thresholds of Significance*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José, and other jurisdictions in the San Francisco Bay Area Air Basin, often utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD based upon the scientific and other factual data prepared by BAAQMD in developing those thresholds. Thresholds prepared and adopted by BAAQMD in May 2011 were the subject of a lawsuit by the California Building Industry Association⁶ and a subsequent appeal by BAAQMD.⁷ The Appellate Court decision on August 13, 2013 upheld the threshold adoption process as valid. Subsequently, the Appellate Court's decision was appealed to the California Supreme Court, which granted limited review and before whom the matter is still pending as of October 2015. The determination of whether a project may have a significant effect on the environment is subject to the discretion of each lead agency, based upon substantial evidence. The City has carefully considered the thresholds prepared by BAAQMD in May 2011 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Evidence supporting these thresholds has been presented in the following documents:

- BAAQMD. *CEQA Air Quality Guidelines*. Updated May 2011.
- BAAQMD. *Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance*. October 2009.
- California Air Pollution Control Officers Association. *Health Risk Assessments for Proposed Land Use Projects*. July 2009.
- California Environmental Protection Agency, California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective*. 2005.

This analysis is based upon the general methodologies in the most recent BAAQMD CEQA Air Quality Guidelines (dated May 2012) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 BAAQMD CEQA Air Quality Guidelines, as shown in Table 4.3-1.

⁶ *California Building Industry Association v. Bay Area Air Quality Management District*, Alameda County Superior Court (Case No. RG10548693).

⁷ *California Building Industry Association v. Bay Area Air Quality Management District*, Cal. Ct. App. 1st, Case No. A135335, August 13, 2013. The Appellate Court ruled that the BAAQMD CEQA thresholds were adopted using a valid public review process and were supported by substantial evidence.

Table 4.3-1: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
Fugitive Dust (PM ₁₀ /PM _{2.5})	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hr average)	20.0 ppm (1-hr average)
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.3 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.8 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Accidental Release of Acutely Hazardous Materials	None	Storage or use of acutely hazardous materials locating near receptors or new receptors locating near stored or used acutely hazardous materials considered significant	
Odors	None	5 confirmed complaints per year averaged over three years	
Source: <i>Bay Area Air Quality Management District CEQA Guidelines</i> (updated May 2011) and BAAQMD. <i>Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance</i> . October 2009.			

The BAAQMD CEQA Air Quality Guidelines recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs.

4.3.2.2 *Applicable Air Quality Plan*

Clean Air Plan Consistency (Checklist Item 1)

The most recent clean air plan is the Bay Area 2010 Clean Air Plan (2010 CAP) that was adopted by BAAQMD in September 2010. This plan addresses air quality impacts with respect to obtaining

ambient air quality standards for non-attainment pollutants (i.e., O₃, PM₁₀ and PM_{2.5}), reducing exposure of sensitive receptors to TACs, and reducing greenhouse gas (GHG) emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020.

Determining consistency with the 2010 CAP involves assessing consistency with land use and population assumptions and whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. The project supports the primary goals of the Clean Air Plan in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that provides users of the site with access to bicycle facilities and transit (which will reduce vehicle trips). It also incorporates energy efficiency measures as a part of project design. The project is generally consistent with the Clean Air Plan and, therefore, would not result in a significant impact related to consistency with the 2010 CAP.

4.3.2.3 *Operational Air Quality Impacts from the Project*

Regional Air Quality (Checklist Item 2 and 3)

The BAAQMD *CEQA Air Quality Guidelines* (2011) contain a screening threshold of 494 mid-rise apartment units and 451 condo/townhome units for operation-related impacts for criteria pollutants and their precursors (e.g., NO_x, ROG, particulate matter). The screening criteria provide lead agencies with a conservative indication of whether a project could result in significant air quality impacts by exceeding the emissions thresholds for criteria pollutants and their precursors shown in Table 4.3-1 (54 lbs. per day for ROG, NO_x, or PM_{2.5} and 82 lbs. per day of PM₁₀). The project proposes 123 attached dwelling units which is well below the screening thresholds, however, the project would contribute to the cumulative regional air quality impacts (specifically substantial ROG and NO_x emission from the implementation of the DSAP) identified in the DSAP FEIR.

Impact AIR – 1: While the project by itself would not result in significant regional air quality impacts, the project would contribute to the significant regional air quality impacts associated with the buildout of the DSAP. The current project design, as analyzed in the Addendum, is in compliance with Mitigation Measure AIR-1.1. During final design approval, PBCE shall determine if the design remains consistent with Mitigation Measure AIR-1.1, below. (**Significant Impact**)

Mitigation Measures: Consistent with the certified DSAP FEIR, the project shall implement the following measures to reduce regional air quality impacts associated with buildout of the DSAP:

MM AIR – 1.1: The project applicant shall implement the following applicable Transportation Control Measures (TCMs):

- Design and locate buildings to facilitate transit access (e.g., locate building entrances near transit stops, eliminate building setbacks, etc.);

- Provide preferential parking (e.g., near building entrance, sheltered area, etc.) for carpool and vanpool vehicles;
- Provide secure, weather-protected bicycle parking;
- Provide secure short-term bicycle parking for retail customers or non-commute trips; and
- Provide direct, safe, attractive pedestrian access from DSAP to transit stops and adjacent development.

The DSAP FEIR included mitigation measures to minimize regional air quality impacts but not reduce them to a less than significant level. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding an established significance threshold, it would contribute to the previously identified significant air quality impacts resulting from implementation of the planned development considered in the DSAP. The project proposes to implement feasible measures to minimize regional air quality impacts and would not result in any new or greater impacts than were previously identified in the DSAP FEIR.

[Same Impact as Approved Project (Significant and Unavoidable Impact)]

Local Air Quality

(Checklist Items 2 and 3)

In addition to regional criteria pollutants, vehicles emit carbon monoxide (CO), which is considered a local pollutant since it tends to concentrate near the source. The BAAQMD threshold for operational emissions of CO is equivalent to the California ambient air quality standards of 9.0 ppm (8-hour average) or 20.0 ppm (1-hour). An air quality analysis evaluated the potential for build out of the DSAP to violate state standards for CO. The air quality analysis accounted for the development of the project site. The three intersections include: 1) Coleman Avenue and Taylor Street, 2) Coleman Avenue and Hedding Street, and 3) Bird Avenue and San Carlos Street (within the Southern Zone of the DSAP area).⁸ Based on dispersion modeling which estimated CO emissions applied to traffic volumes under cumulative conditions, build out of the DSAP would not cause increase CO emissions above state CO standards. Since the project was considered in the DSAP FEIR analysis of future CO emissions, the proposed project would not result in any new or greater impacts than were previously identified in the DSAP FEIR.

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

Toxic Air Contaminants

(Checklist Item 2 and 4)

The operation of the proposed mixed-use residential development is not considered a source of TAC or fine PM_{2.5} emissions. As a result, the proposed operation of the project would not cause emissions that expose sensitive receptors to unhealthy pollutant levels. Since operation of the project would not be a source of TACs, the project's operation (post-construction) would not contribute cumulatively to unhealthy exposure to TACs.

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

⁸ The Bird Avenue and San Carlos Street intersection was the only intersection within the DSAP area evaluated for CO emissions in the DSAP FEIR.

4.3.2.4 *Short-Term Construction-Related Impacts*

Criteria Air Pollutants and Precursors

(Checklist Items 2 and 3)

Construction activities would temporarily affect local air quality. Construction activities such as earthmoving, construction vehicle traffic, and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

The project size does not exceed BAAQMD's screening threshold of 240 apartment units or condo/townhouse units for construction period criteria air pollutant emissions and, therefore, does not require modeling of project construction emissions. The proposed project, therefore, would have a less than significant construction criteria air pollutant emissions impact and would not result in a cumulatively considerable net increase of criteria air pollutants from construction activities.

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

Construction Dust Emissions

(Checklist Item 2 and 4)

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when and if underlying soils are exposed to the atmosphere. Construction activities would increase dustfall and locally elevated levels of PM₁₀ downwind. Nearby land uses, particularly sensitive receptors to the north, south and west of the site, could be affected by dust generated during construction activities.

Impact AIR – 2: The project would generate dust during construction activities (approximately 21 months) that would affect nearby sensitive receptors.

Mitigation Measures: Consistent with the 2011 BAAQMD CEQA Air Quality Guidelines, GP Policy MS-13.1, and current City requirements, the project shall implement the following standard permit conditions during all phases of construction on the project site, to reduce dustfall emissions:

MM AIR – 2.1: The project applicant shall implement the following standard Bay Area Air Quality Management District (BAAQMD) dust control measures during all phases of construction on the project site:

- All active construction shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles-per-hour.
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.

- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for 10 days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

The project would implement the mitigation measures listed above as conditions of approval. These measures would be placed on project plan documents prior to issuance of any building permits for the project. The proposed project, therefore, would not result in a significant air quality impact due to construction dust emissions. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

Construction TACs and PM_{2.5} Health Risks

(Checklist Item 2 and 4)

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The maximally exposed individual (MEI) receptor (to DPM and PM_{2.5} concentrations) during project construction would be a single-family residence approximately 100 feet south of the project site.

As shown in Table 4.3-1, under the BAAQMD CEQA Air Quality Guidelines (Air Quality Guidelines), an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the Maximally Exposed Individual or MEI would result in a significant impact. The BAAQMD Air Quality Guidelines consider exposure to annual PM_{2.5} concentrations that exceed 0.3

$\mu\text{g}/\text{m}^3$ from a single source to be significant. Cancer risks that exceed 100 cases per million and annual $\text{PM}_{2.5}$ concentrations that exceed $0.8 \mu\text{g}/\text{m}^3$ from cumulative sources are also significant. The BAAQMD significance threshold for non-cancer hazards is 1.0.

The community health risk assessment prepared for the project included an evaluation of potential health effects to sensitive receptors at the nearby residences from construction emissions of $\text{PM}_{2.5}$, in accordance with GP Policy MS-11.2. Results of this assessment indicate that the maximum concentration of $\text{PM}_{2.5}$ during construction (which is based on combined exhaust and fugitive dust emissions) would be $0.24 \mu\text{g}/\text{m}^3$ which is below the BAAQMD $0.3 \mu\text{g}/\text{m}^3$ significance threshold.

Construction residential child cancer risk would be 13 in one million (which is above the BAAQMD 10 excess cancer cases per million significance threshold) and residential adult cancer risk would be 0.7 in one million during construction activities. The DSAP FEIR disclosed that sensitive receptors in the Park/San Carlos subarea (including the project site) may be exposed to substantial concentrations of TACs during construction. In accordance with GP Policy MS-13.1, the project would include construction equipment exhaust control measures to reduce construction TAC impacts on sensitive receptors. The mitigation measure MM AIR-3.1 (below) is project-specific and based on available construction information (which was not available at the time DSAP FEIR was prepared).

Impact AIR-3: Emissions from diesel-operated construction equipment during project construction would result in significant health impacts to nearby sensitive receptors.

Mitigation Measures: Implementation of the following mitigation measures would reduce the impacts of construction emissions on sensitive receptors.

MM AIR-3.1: The project applicant shall develop a plan demonstrating that the off-road equipment used to construct the project would achieve a fleet-wide average 30 percent reduction in $\text{PM}_{2.5}$ emissions. One feasible plan to achieve this reduction includes the following:

- All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.
- The construction contractor shall use CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled (i.e., non-diesel) equipment, or equivalent, as well exhaust devices that minimize construction period diesel particulate matter emissions, in accordance with the City's approval.

The implementation of the MM AIR-2.1 to reduce dust and exhaust emissions would reduce exhaust emissions by five (5) percent and fugitive dust emissions by over 50 percent. The implementation of MM AIR-3.1, specifically the use of equipment that meets U.S. EPA particulate matter emissions standards for Tier 2 engines for equipment larger than 50 horsepower would reduce construction emissions by over 40 percent. The implementation of both the above MM AIR-1.1 would reduce

exhaust and fugitive dust emission and correspondingly reduce child cancer risks below 7.8 chances per million (which would be below the BAAQMD thresholds of greater than 10.0 per one million for cancer risk). **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

Cumulative Construction Risk Assessment

In addition to the construction of the project, the stationary and mobile TAC sources (described in Table 4.3-2 below) were considered to assess the combined effects of these TAC sources on nearby sensitive receptors. Based on the results in the Table 4.3-2 below, the project's construction would not result in significant cumulative impacts on sensitive receptors near the site.

Table 4.3-2: Combined Community Risks from Project, Mobile and Stationary Sources			
Source	Cancer Risk (at project site)	PM_{2.5}	Non-Cancer Hazard Index
Proposed Project Construction	Child = 13.0	0.24	0.02
SR 87 ¹	3.7	0.05	<0.01
SR 82 ¹	6.3	0.04	<0.01
Diamond Cleaners (398 West San Carlos Street) ²	0.0	0.0	<0.02
Legacy Partners Office Building Generator (333 West San Carlos Street) ²	1.8	<0.01	<0.01
Total	24.8	0.31	0.03
<i>BAAQMD Cumulative Source Threshold</i>	<i>100 in one million</i>	<i>0.8 µg/m³</i>	<i>10.0</i>
<i>Significant?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Notes: The cumulative impact analysis of local community risks and hazards is included in <i>Section 4.18.2 Cumulative Impacts</i> .			
1. Mobile toxic air contaminant source (TAC) source			
2. Stationary TAC source			

4.3.2.5 Odor Sources Generated from the Project (Checklist Item 5)

No new stationary odor sources are proposed as part of the proposed project; the project would not expose existing nearby sensitive receptors to new odor sources. Operation of construction equipment could create objectionable odors, however, due to localized and temporary nature of construction-related odors, construction of the project would not generate odors that would affect a substantial number of people. The project would, therefore, not result in any new or greater impacts than were previously identified in the DSAP FEIR.

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

4.3.2.6 *Local Community Risks and Hazards Impacts to the Project*

Toxic Air Contaminants (Checklist Items 2 and 4)

As previously discussed in Section 4.0, on December 17, 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are also discussed below.

General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of measures or conditions or be located an adequate distance from sources to avoid significant risks to health and safety for future residents and users of the project. The analysis below discloses information on the project’s compliance with General Plan Policy MS-11.1. As described above in *Section 4.3.2.1*, the BAAQMD *CEQA Air Quality Guidelines* (2011) recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs. A community health risk assessment was completed for the project site to identify TAC emission sources within 1,000 feet of the site and their impacts on the proposed project.

Roadway TAC Analysis

State Route 87 and State Route 82 (West San Carlos Street) are the only sources of TAC emissions within 1,000 feet of the project site with traffic in excess of 10,000 average daily trips (ADT). Surface streets, other than State Route 82, with high volumes of traffic were not identified near the project site. BAAQMD’s highway screening analysis tool was used to assess potential excess cancer risk and annual PM_{2.5} concentrations from SR 87 and SR 82. This tool allows predictions of cancer risk, non-cancer hazards and PM_{2.5} concentrations based on the distance and orientation of the highway. The cancer risks at the project site were estimated at 5.9 cancer cases per million for SR 87 and 3.8 cancer cases per million for SR 82 which are below the BAAQMD single source threshold of a 10 cases per million. The estimated PM_{2.5} concentrations were 0.05 micrograms (µg) per cubic meter (m³) and 0.04 µg /m³ for SR 87 and SR 82, respectively (both concentrations are below BAAQMD’s PM_{2.5} 0.3 µg /m³ threshold for single sources). The hazard index (which indicates the risk of non-cancer hazards) for both highways was estimated to be less than 0.01 (which is well below the 1.0 BAAQMD hazard index threshold for single sources).

Stationary TAC Analysis

Diamond Cleaners (located at 398 West San Carlos Street) and a generator located at the Legacy Partners office building (located at 333 West San Carlos Street) are BAAQMD-permitted stationary

TAC sources located within 1,000 feet. No other nearby existing stationary sources were identified by BAAQMD's stationary source screening tool.

BAAQMD's stationary source screening tool was used to assess the cancer risk, PM_{2.5} concentrations, and non-cancer risk of the identified sources (i.e., the above mentioned Diamond Cleaners and Legacy Partners generator) that would impact future residents at the project site. The cancer risk at the project site was estimated to be negligible for the dry cleaners and 1.3 cancer cases per million for the generator which are below the BAAQMD single source threshold of a 10 cases per million. The estimated PM_{2.5} concentrations were negligible for the cleaners and less than 0.01 µg /m³ for the Legacy Partners generator (the estimated concentrations are below BAAQMD's PM_{2.5} 0.3 µg /m³ threshold for single sources). The hazard index for the dry cleaners was estimated to be less than 0.02 and less than 0.01 for the generator (which is well below the 1.0 BAAQMD hazard index threshold for single sources).

Cumulative TAC Risk

Cumulative TAC impacts to project sensitive receptors were evaluated by adding the cancer risk, PM_{2.5} concentrations, and Hazard Index from each TAC source within 1,000 feet of the project site and comparing those to the Air Quality Guidelines significance thresholds for cumulative sources. Predicted cumulative community risk is as follows: 15.1 cancer risk cases per million, 0.1 µg/m³ annual PM_{2.5}, and less than 0.1 acute or chronic hazard index. All of these levels are below the BAAQMD CEQA Air Quality Guidelines significance thresholds of 100 per million cancer risk, 0.8 µg/m³ annual PM_{2.5}, and 10.0 hazard index. The project would have a less than significant impact with respect to cumulative community risk.

Table 4.3-3, below, summarizes the TAC exposure risks to future residents of the site.

Source	Cancer Risk (at project site)	PM_{2.5}	Non-Cancer Hazard Index
SR 87, Guadalupe Freeway, 200 feet east of the project site	8.1	0.05	<0.01
SR 82, West San Carlos Street, 125 feet south of the site	5.2	0.04	<0.01
Diamond Cleaners (398 West San Carlos Street)	0.0	0.0	<0.02
Legacy Partners Office Building Generator (333 West San Carlos Street)	1.8	<0.01	<0.01
Total	15.1	0.1	<0.05
<i>BAAQMD Single-Source Threshold</i>	<i>10 in one million</i>	<i>0.3 µg/m³</i>	<i>1.0</i>

Source	Cancer Risk (at project site)	PM_{2.5}	Non-Cancer Hazard Index
<i>Significant?</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>BAAQMD Cumulative Source Threshold</i>	<i>100 in one million</i>	<i>0.8 µg/m³</i>	<i>10.0</i>
<i>Significant?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Notes: The cumulative impact analysis of local community risks and hazards is included in <i>Section 4.18.2 Cumulative Impacts</i> .			

Additionally, residents of the project site would not be exposed to an increased lifetime cancer risk of greater than 10.0 cases per million, annual PM_{2.5} concentrations in excess of 0.3 µg/m³, or a non-cancer hazard risk of greater than 1.0 per single source. Future residents of the project site would not be exposed to substantial pollutant concentrations exceeding the thresholds of significance for TACs as analyzed in the health risk assessment prepared for the project pursuant to the policies of the 2040 General Plan as identified in the General Plan FEIR to ensure less than significant impacts to sensitive receptors.

Impacts of Odor Sources on the Project (Checklist Item 5)

Based on the DSAP FEIR, there are no potential odor sources in the DSAP area. The proposed mixed-use residential development would, therefore, not be within the screening distance of existing odor sources established by BAAQMD. For these reasons, the proposed project would not expose new sensitive receptors to localized sources of odors. The project would, therefore, not result in any new or greater impacts than were previously identified in the DSAP FEIR.

4.3.3 Conclusion

Consistent with the DSAP FEIR, the implementation of the proposed project would not conflict with an applicable air quality plan (specifically the BAAQMD) 2010 Clean Air Plan.

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

The proposed project would not result in significant local (carbon monoxide) air quality impacts. The DSAP FEIR included mitigation measures to minimize regional air quality impacts but not reduce them to a less than significant level. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding an established significance threshold, it would contribute to the previously identified significant regional air quality impacts resulting from implementation of the planned development considered in the DSAP. The project proposes to implement feasible measures to minimize regional air quality impacts and would not result in any new or greater impacts than were previously identified in the DSAP FEIR.

[Same Impact as Approved Project (Significant and Unavoidable Impact)]

Operation of the project would not be exposed to substantial pollutant concentrations exceeding the thresholds of significance for TACs as analyzed in the community health risk assessment prepared for the project pursuant to the policies of the DSAP FEIR to ensure less than significant impacts to

new sensitive receptors. With the implementation of the above mitigation measures to reduce PM_{2.5} and exhaust emissions during construction, the project would not result in a significant TAC impact on sensitive receptors near the project site.

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

Consistent with the DSAP FEIR, the project would not generate objectionable odors affecting a substantial number of people, nor expose project residents to existing odors.

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

4.4 BIOLOGICAL RESOURCES

The following section is based upon a Tree Inventory, Assessment, and Protection Plan and an Arborist Tree Protection Letter prepared by *Monarch Consulting Arborists* in January and March 2016, respectively (refer to Appendix B of this Initial Study).

4.4.1 Setting

The project site is located in an urban area and approximately one third of the site is covered with buildings or pavement. A tree survey was prepared for the project site that included a total of nine trees comprised of seven different species. There are three tree of heaven and one coast live oak, innocence cedar, coast redwood, fig, pepper, and Canary Island pine. The coast live oak is the only 'Native' tree to this area although coast redwoods can be found naturally growing in the nearby Santa Cruz Mountains. There are no street trees around the exterior of the property in a park strip or otherwise.

Title 13.32 (Tree Removal Controls) of the City of San José's Municipal Code defines 'Ordinance' size trees as trees over 56 inches in circumference, or approximately 18 inches in diameter at a height of 24 inches from natural grade. Ordinance trees are generally mature trees that not only help beautify the City but have other benefits to protect the environment. Except for the fig and one tree of heaven all the remaining trees have trunk diameters greater than 18 inches (or 56 inch circumference, i.e. ordinance-sized). Most of the trees are in fair condition with poor suitability for preservation. The large 52-inch diameter coast live oak (*Quercus agrifolia*) fronting Sonoma Street is the only tree in good condition with normal foliar color, size and density. Refer to Tree Inventory Map in Appendix B for locations of the trees and for a detailed discussion on the species, health, and structure of the trees.

Under the City of San José Municipal Code, Section 13.28.330, specific trees are designated by City Council, because of factors including, but not limited to, their history, girth, height, species or unique quality, to have a special significance to the community and are designated Heritage Trees. There are no City-designated heritage trees on the project site.⁹

There are no waterways or jurisdictional wetlands on or near the project site.

The DSAP area including the project site is located within the Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (SCVHP)¹⁰. The HCP/NCCP is a conservation program that has been developed to promote the recovery of endangered species while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

⁹ City of San Jose. *Heritage Trees*. Available at: <<https://www.sanjoseca.gov/index.aspx?NID=1913>>. Accessed January 19, 2016.

¹⁰ The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (Santa Clara Valley Habitat Plan) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The HCP/NCCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

The HCP/NCCP has been approved. The SCVHP was approved by the local partners, became effective on October 14, 2013, and the implementing agency established. The site has a designation of “Urban-Suburban” in the SCVHP and is not identified as requiring surveys for any covered species.

4.4.1.1 *Applicable Plans, Policies and Regulations*

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

City of San José Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.32.010 to 13.32.100) serve to protect all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade of slope. A multi-trunk tree shall be considered a single tree, and measurement of that tree shall include the sum of the circumference of the trunks. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

Envision San José 2040 General Plan

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

General Plan Policies: Biological Resources	
Migratory Birds	
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Urban Natural Interface	
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Community Forest	
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.4.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,10

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,11

DSAP FEIR – Biological Resources Conclusions

The DSAP FEIR concluded that with the implementation of General Plan policies and existing regulations, future development under the DSAP would not result in a significant impact to sensitive riparian and aquatic habitat. With implementation of standard measures disclosed in the DSAP FEIR for the protection of trees, development under the DSAP would not result in a significant impact to community trees. The implementation of measures (disclosed in the DSAP FEIR) to reduce impacts on special status species, nesting raptors, and migratory birds would result in a less than significant impact on these species. Additionally, buildout of the DSAP would not significantly impact wildlife migration corridors and would not conflict with the HCP/NCCP.

4.4.2.1 *Impacts to Sensitive Species and Habitats*
(Checklist Items 2, 3 and 4)

The project site is mostly vacant and consists of an unoccupied one story commercial building. Several residences were previously on the project site and were demolished in 2009. Because of the history of development and disturbance on-site, no natural or sensitive habitats which would support endangered, threatened, or special status wildlife species occur on-site. There are no riparian, wetland or aquatic areas on or adjacent to the project site. The impacts of the proposed development on site’s developed habitat would be less than significant due to the relatively low value of this habitat for biological resources compared to more natural habitats.

The project would remove eight existing trees which nesting/migratory birds could occur. The project would, however, plant replacement trees and additional landscaping to offset impacts to nesting/migratory birds that could occur in trees on the site. The proposed landscaping could also minimize bird collisions on the proposed residential buildings and which would reduce the project’s impact on bird movement through the site. The proposed project would, therefore, not significantly impact sensitive habitats or the movement of native or migratory birds through the project area.

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

4.4.2.2 *Tree Removal and Preservation*

Impacts to Trees

(Checklist Item 5)

As mentioned above, there are seven-ordinance sized trees, including the 52-inch in diameter coast live oak, and two non-ordinance sized trees on the site. Based upon the proposed development, all of the trees would be removed, with the exception of the 52-inch oak tree on Sonoma Street, which would require special care to protect it during construction. A Tree Removal Permit or a development permit is required prior to the removal of ordinance-sized trees. Six trees greater than 18 inches in diameter would be removed as part of the Special Use Permit.

Consistent with the Envision San José 2040 General Plan, trees removed by the project will be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San José Municipal Code
 - Section 13.28 (Street Trees)
 - Section 13.32 (Tree Protection Controls)
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

Standard Permit Condition: The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or more	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gal. container
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 18-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

The removal of six non-native Ordinance size trees will require 24 replacement trees, and the removal of two non-Ordinance trees will require four replacement trees, for a total of 28 replacement trees. The project includes planting approximately thirty 24-inch box street trees along the project street frontage, and twenty-two 24-inch box and seven 36-inch box trees on-site. However, street tree species and locations are to be approved by the City Arborist at the street improvement stage. **[Same as Approved Project (Less than Significant Impact)]**

Coast Live Oak Tree Protection Plan

Understanding the coast live oak will be the only tree preserved, the consulting arborist, using the tolerance, age, and diameter formula for the Tree Protection Zone, recommended a tree protection

radius of 39 feet (0.75 feet per inch trunk diameter). The Critical Root Zone distance around the coast live oak is three to five times the trunk diameter allowing for a maximum encroachment distance on one side to be 13 to 22 feet from the trunk with no trenching to occur within 22 feet. It may be acceptable to add fill soils within the Tree Protection Zone and outside 13 feet to match finished grades near the structures. Fill soil should be tapered down toward the trunk and not cause pooling or drainage under the tree. Coast live oaks are not compatible with irrigated turf and the project will not use turf near the tree. A planted area with mulch shall be incorporated into the landscape with compatible plants and similar watering requirements.

The project may involve soil remediation under the coast live oak to remove toxic elements that may be present. The removal of soil may negatively impact the tree depending on how the process is performed. In the event that soil remediation needs to take place under the coast live oak the process selected for the type of remediation should not damage or destroy tree roots, and shall be reviewed and approved by the consulting arborist. Mechanical removal of soils would need to be done with a 'hydrovac' or similar type machinery to remove the soil from the site.

The project proposes to include tree protection measures specifically for this oak tree, in addition to the standard tree protection measures below. As disclosed in the DSAP FEIR, development within the General Plan and DSAP areas could result in direct and indirect impacts to the City's community forest, which consists of the ornamental trees, stands of native trees, and remnant orchard trees in developed areas of the City of San José. The implementation of the mitigation measures MM BIO-1.1-1.8 and MM 2.1-2.2 below to protect the existing large oak tree are consistent with the tree preservation and protection measures identified in the Section 4.7.3.3 of the DSAP FEIR. Consistent with the conclusions of the DSAP FEIR, the implementation of these measures, General Plan Policies, and existing regulations in the City's Municipal Code, would reduce the project's impact on the large on-site oak tree to a less than significant level.

Impact BIO-1: Construction activities within the dripline area of the large coast live oak Tree No. 500 could result in a significant impact to this tree. **(Significant Impact)**

Mitigation Measures: Implementation of the following mitigation measures would reduce construction impacts to the coast like oak Tree No. 500 to a less than significant level.

MM BIO-1.1: Place tree protection fence at a radius of 39 feet around the coast live oak No. 500. This fence must be a six (6) foot chain-link material attached to two (2) inch galvanized iron pipe posts driven at least two (2) feet into the ground. The fence shall completely surround the canopy of Tree No. 500 except for a two (2) foot wide access entry. Plastic laminated signs stating "WARNING Tree Preservation Area KEEP OUT" shall be attached on 10-foot centers to the top of the fence.

MM BIO-1.2: No excess soil, chemicals, debris, equipment, or other materials shall be dumped or stored within the TREE PROTECTION ZONE. Refer to Appendix B of the Monarch Consulting arborist report for general protection guidelines and specifications. When necessary have the project arborist monitor the

temporary removal of the tree protection fence for work within the TPZ. Have the project arborist supervise any work under the crowns of the protected tree retained.

- MM BIO-1.3:** Maintain a maximum encroachment on one side of the tree, as measured from the outside edge of the TPZ, at 13 to 22 feet with no trenching within 22 feet from the outside edge of the TPZ.
- MM BIO-1.4:** Wrap tree with straw wattle.
- MM BIO-1.5:** Provide a copy of the Monarch Consulting arborist report to all contractors and project managers, including the architect, civil engineer, and landscape designer or architect. It is the responsibility of the owner to ensure all parties are familiar with this document.
- MM BIO-1.6:** Plant trees and shrubs compatible with native oaks under the coast live oak (Monarch Consulting Arborist report, Appendix F).
- MM BIO-1.7:** Incorporate a landscape design plan that will minimize soil compaction and root disturbances within the critical root zone. Adopt a no dig policy.
- MM BIO-1.8:** Soil remediation under the canopy or within the TPZ/CRZ of the coast live oak tree shall be monitored by the project arborist. The process implemented should not destroy roots and soil replacement will be required during the same time the soils are removed. Employ remediation techniques that cause the least amount of disturbance to the soils.
- MM BIO-1.9:** The applicant shall implement shoring and other safety measures to protect the large coast live oak tree TPZ during construction, to ensure that no excavation occurs within the TPZ. The shoring and safety measures to protect the large coast live oak tree shall be listed on the final grading plans. The project arborist and the City Arborist shall review the TPZ safety measures on the final grading plans prior to the applicant obtaining the project grading permit to ensure the safety measures adequately protect the tree from construction activity.
[Same as Approved Project (Less than Significant Impact with Mitigation)]

Subsequent to project construction, the property owner (e.g. property management company if rental or Home Owners Association if for-sale) would be responsible for managing the long-term care of the large coast live oak tree. Measures recommended by the project arborist would be implemented on an ongoing basis following the construction of the proposed development.

- Impact BIO-2:** The long-term health of the large coast live oak tree could be significantly impacted due to improper ongoing management of the tree and TPZ.
(Significant Impact)

Mitigation Measures: The following mitigation measures would reduce the potential impacts on the long-term health of the large coast live oak tree to a less than significant level. The proposed project shall include, but not limited to, the following tree protection measures:

MM BIO-2.1: The property owner shall use mulch or gravel in the area identified in site plan L1.0 dated May 2, 2016 and received by the City of San Jose Planning Department on May 23, 2016. Such area is entirely within the dripline area and the TPZ of the large coast live oak tree. The property owner shall use lawn or gravel in the area identified under the TPZ on sheet L1.0 dated May 2, 2016 and received by the City of San Jose Planning Department on May 23, 2016. No more than 35 percent of the total tree protection area shall contain turf grass.

MM BIO-2.2: A Certified Arborist shall, at a minimum, annually inspect the large oak tree for changes in health and to assess its structural integrity to advise the property owner on the tree's ongoing care and management. The tree shall be pruned as necessary, under the supervision of a certified arborist, according to the most recent International Society of Arboriculture (ISA) Best Management Practices:

- Pruning and maintenance specifications of any kind shall be in writing and in accordance with the most recent American National Standards Institute ANSI A-300 (Parts 1-9) - for tree care operations, Tree, Shrub, and Other Woody Plant Management, Standard Practices.
- Preventative bark beetle applications to the lower trunk shall be implemented three times a year (March, June and September) with Onyx (Bifenthrin) or Asto (Permethrin).

The tree protection measures shall be approved by the City's Supervising Environmental Planner in consultation with the City Arborist prior to issuance of grading permits.

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

4.4.2.2 *Impacts to Special Status and Protected Species*

Nesting Raptors and Birds *(Checklist Item 1)*

Raptor species such as the red-tail hawk, red-shouldered hawk, and Cooper's hawk could utilize the trees on the site and trees occurring within 250 feet of the site for breeding. Any construction related disturbances that result in nest abandonment or other forms of harm or injury to nesting birds that occur on or near the site would be considered a significant impact. In fact, per the Migratory Bird Treaty Act, all raptors and most bird species are protected while breeding. Therefore, pre-construction surveys for nesting raptors and other protected birds should be completed prior to any disturbances that occur during the nesting season to ensure that birds are not harmed, injured, or killed as a result of demolition project. Mitigation for the loss of habitat would not be required as the

site itself supports only low quality foraging habitat for these species due to its lack of a suitable prey base, small size, and high level of disturbance.

The DSAP FEIR addressed impacts to nesting raptors and concluded that such impacts would be significant. The project shall include the DSAP FEIR identified measures to reduce nesting raptor impacts to a less than significant level. The following list is consistent with those measures and will be implemented by the project:

Impact BIO-3: If project demolition and tree removals occur during breeding season, the project could result in a significant impact to nesting raptors. **(Significant Impact)**

Mitigation Measures: With the implementation of the following mitigation measures, in conformance with the CDFW Code and provisions of the Migratory Bird Treaty Act and General Plan policies ER-5.1 and ER-5.2, the project would avoid impacts to nesting raptors or reduce impacts on nesting raptors to a less than significant level.

MM BIO-3.1: If possible, demolition and tree removals shall be scheduled between September and January (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be completed by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation:

- Between February and April (inclusive) pre-construction surveys shall be completed no more than 14 days prior to the initiation of construction activities or tree removal.
- Between May and August (inclusive), pre-construction surveys shall be completed no more than thirty (30) days prior to the initiation of these activities.
- The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests.
- If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest, which shall be protected from disturbance through the duration of nesting activity.
- The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner prior to the start of any grading.
[Same as Approved Project (Less than Significant Impact with Mitigation)]

Roosting Bats
(Checklist Item 1)

Several species of bats, including the pallid bat, a California species of special concern, have the potential to roost in existing structures and large trees within the project area. If bats are day roosting in trees within the project area or the remaining on-site building, the removal of the trees and buildings would result in injury or mortality of individual bats. Construction activities in proximity to active roosts may cause roost abandonment. If this abandonment occurs during daylight hours, bats would be subject to high predation risk, and mortality of young in the roost. The loss of individual bats or a maternity roost site would be a significant impact. Implementation of the following pre-demolition survey would avoid bat impacts.

Impact BIO-4: Demolition of the existing building or removal of trees could result in a significant impact to roosting bats. **(Significant Impact)**

Mitigation Measures: Implementation of the following mitigation measures would reduce the project's impacts to roosting bats to a less than significant level.

MM BIO-4.1: Surveys for roosting bats shall be completed by a qualified biologist no more than thirty (30) days prior to any building demolition activities.

- If a female or maternity colony of bats is found on the project site, and the buildings can be demolished without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the demolition activities outside the maternity roosting season (after July 31 and before March 1).
- If an active nursery roost is known to occur on the site and the demolition project cannot be completed outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, shall be in place at least one summer season prior to the exclusion. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be completed in conformance with the requirements of the California Department of Fish and Wildlife (CDFW).
- A biologist report outlining the results of pre-demolition surveys and any recommended buffer zones or other mitigation shall be submitted by the applicant to the satisfaction of the City's Supervising Environmental Planner prior to the issuance of any demolition permit or tree removal. **[Same as Approved Project (Less than Significant Impact with Mitigation)]**

4.4.2.3 *Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (HCP/NCCP)*

(Checklist Item 6)

The project will not be subject to any land cover fee given the current developed nature of the site and its designation as Urban-Suburban land in the HCP/NCCP.

Nitrogen Deposition Impacts on Serpentine Habitat

All development covered by the HCP/NCCP is required to pay a nitrogen deposition fee as mitigation for cumulative impacts to serpentine plants in the HCP/NCCP area. Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the HCP/NCCP area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of the several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The nitrogen deposition fees collected under the HCP/NCCP for new vehicle trips will be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The project would implement the following standard permit condition.

Standard Permit Condition: The project applicant shall be pay all applicable fees prior to issuance of a grading permit.

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

4.4.3 Conclusion

The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to biological resources than those addressed in the certified DSAP FEIR.

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

4.5 CULTURAL RESOURCES

The following discussion is based upon an Archaeological Records Search and Limited Literature Report prepared by *Basin Research Associates* in June 2006, and an Updated Historic Architecture Evaluation prepared by *Ward Hill, Architectural Historian* in February 2009. A copy of the Archaeological Report and Historic Architecture Evaluation may be obtained from the City's Planning Division located at 200 East Santa Clara Street, Floor 3, during normal business hours.

4.5.1 Setting

4.5.1.1 *Prehistoric Resources*

The project area is at a location that offered a multitude of benefits to prehistoric inhabitants. It is likely that human occupancy and use of the general area has occurred for at least 5,000 to 7,000 years into the past. Previous CEQA documents prepared for redevelopment in the project area have also found evidence of prehistoric use, and identified a likelihood that additional evidence of prehistoric occupation is buried beneath flood-deposited soils.

The project site, located halfway between Los Gatos Creek to the east and the Guadalupe River to the west, was favored by Native Americans for both occupation and hunting and collecting activities. A major trail was situated in the project vicinity along the west side of the Guadalupe River and another trail was located on the west side of Los Gatos Creek and crossed the Guadalupe River just north of its confluence with Los Gatos Creek. Historic accounts and archaeological data suggest that a number of tribelets may have had temporary camps within the vicinity of the project site. The area would have provided a desirable environment during the prehistoric period with riparian and inland resources readily available and the bayshore in proximity.

An archaeological literature review was prepared by *Basin Research Associates* to obtain archaeological reports which cover the project area and surrounding properties. There are no recorded archaeological sites on or adjacent to the project site. Nevertheless, the project area is considered to have moderate archaeological sensitivity for prehistoric deposits and historic deposits due to its location near Los Gatos Creek and the Guadalupe River.

4.5.1.2 *Historic Resources*

The existing office building (410-422 Park Avenue) on the project site was evaluated for historic significance under the National Register of Historic Places (National Register) criteria, the California Register of Historic Resources (California Register), and under the City of San José's process. Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission has established a quantitative process by which historical resources are evaluated for significance. The existing building was evaluated as a part of the Initial Study for the Park and Delmas Demolition Project adopted in 2009. The numerical evaluation system has the following categories of significance: 67-134 points = Candidate City Landmark; 33-66 points = Structure of Merit; 1-32 points = Evaluated and found to be non-significant. For CEQA purposes, the City has considered designated City Landmarks and structures scoring 67 points and above

(Candidate City Landmark) as a threshold of significance.¹¹ Structures scoring lower than 67 points may have historical importance, but for the purposes of CEQA are not considered historically significant.

The existing office building at addresses 410-422 Park Avenue was constructed in 1956. The earliest tenants were listed in 1957. The building tenants included a photo supply company, an advertising company, an office supply company, insurance company, and accounting firms from 1957 through the 1960s. The building was vacant for several years in the mid-1970s; during this period the City of San José purchased it and began renting it to primarily local non-profit organizations until 2008.

Based on the 2009 evaluation, the existing building has high level of historic integrity. The building is, however, not a distinguished example of the Ranch House Style in San José, and, therefore, is not eligible under National Register Criterion C or California Register Criterion 3 (refer to Section 4.5.1.4, *Applicable Plans, Policies and Regulations* in this Initial Study). The building also does not have significant associations with local themes or cultural patterns of significance, and, therefore, is not eligible for the California Register under Criterion 1 or National Register under Criterion A.

Historic research did not identify any significant figures, businesses or organizations in local history occupying the building, thus the building does not appear to be significant under California Register Criterion 2 or National Register Criterion B. The building is not eligible for the California or National Register since it is not considered significant under California Register Criteria or National Register Criteria.

Based on the City's Historic Evaluation Criteria, the existing office building does not qualify for listing on the City of San José Historic Resources Inventory since it received 23 points (i.e., evaluated and found to be non-significant).

4.5.1.3 Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings.

Potentially sensitive areas for the presence of paleontological resources are based on the underlying geologic formation. The project site is situated on Holocene age alluvial deposits, which are generally not considered sensitive for paleontological resources because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. The project site is underlain by Holocene alluvial fan material deposits, which have low potential to yield significant fossils at the surface but may contain resources at depth.¹²

¹¹ This threshold has been reflected in EIRs promulgated by City staff, certified by the Planning Commission, and approved by the City Council.

¹² C. Bruce Hanson. 2010. *Paleontological Evaluation Report for the Envision San José 2040 General Plan, Santa Clara County, California*.

In addition, remains of a mammoth (*Mammuthus columbi*) were found in 2005 along the Guadalupe River in San José within a geologic strata mapped as Holocene, indicating that Holocene materials in the Santa Clara Valley may have some level of sensitivity for paleontological resources.

4.5.1.4 *Applicable Plans, Policies, and Regulations*

National Register of Historic Places

The National Register is a comprehensive inventory of known historic resources throughout the United States. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. Historic places are nominated to the National Register by the State Historic Preservation Officer (SHPO) of the state in which the property is located. Any person or agency can propose a nomination (e.g., property owner, local government, citizens), but a nomination must be processed through SHPO.

There are four basic criteria under which a structure, site, building, district, or object can be considered eligible for listing in the National Register. These criteria are:

- Criterion A (Event): Buildings that are associated with events that have made a significant contribution to the broad patterns of our history.
- Criterion B (Person): Buildings that are associated with the lives of persons significant in our past.
- Criterion C (Design/Construction): Buildings that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master.
- Criterion D (Information Potential): Buildings that have yielded, or may be likely to yield, information important in prehistory or history.

For a property to qualify for listing in the National Register, it must also retain “historic integrity of those features necessary to convey its significance.” To determine if a property retains the physical characteristics corresponding to its historic context, seven aspects of historic integrity are evaluated. The aspects of historic integrity include: location, design, setting, materials, workmanship, feeling, and association between the property and an important historic event or person.

California Register of Historic Resources

The California Register is an inventory of significant architectural, archaeological, and historical resources in the State of California. Resources can be listed in the California Register through a number of methods. As mentioned above, resources determined eligible for the National Register are automatically listed on the California Register. State Historical Landmarks are also automatically listed in the California Register. Properties can also be nominated to the California Register by local governments, private organizations, or citizens. The evaluative criteria used for determining eligibility for the California Register are closely based on those developed by the National Park Service for the National Register of Historic Places. The California Register criteria include the following:

- Criterion 1 (Events): Resources that are 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.
- Criterion 2 (Persons): Resources that are associated with the lives of persons important to local, California, or national history.
- Criterion 3 (Architecture): Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values.
- Criterion 4 (Information Potential): Resources or sites that have yielded or have the potential to yield information important to the prehistory or history of the local area, California, or the nation.

As with the National Register, a resource is eligible for listing in the California Register if it meets any one of the criteria of significance and sufficiently retains historic integrity. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.

Native American Burials

California law protects Native American burials, skeletal remains, and associated grave materials and provides for the sensitive treatment and disposition of those remains (Section 7050.5(b) of the California Health and Safety code). CEQA Guidelines section 15064.5(e) requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner or medical examiner be contacted to assess the remains. If the county coroner or medical examiner determines that the remains are those of Native Americans, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. The property owner is required to consult with the appropriate Native Americans identified by the NAHC as a “most likely descendant” to develop an agreement for the treatment and disposition of the remains.

City of San José Historic Preservation Ordinance

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

The City of San José Historic Resources Inventory (HRI) identifies known historic resources of varying significance, including properties listed on or eligible for listing in the California and National Registers, City Landmarks, Candidate City Landmarks, Structures of Merit, Contributing Structures, and Identified Sites/Structures. A City Landmark is a highly significant historic resource meeting the qualifications for landmark designation as defined in the Historic Preservation Ordinance. A Structure of Merit is a special historic resource that does not merit City Landmark designation, but contributes to the historic fabric of the City or neighborhood. The preservation of

Structures of Merit are not considered significant resources for the purposes of CEQA. The category of Identified Site/Structure is applied when further evaluation of the significance of the structure should be undertaken. A Contributing Structure may be less significant individually than it is as an element located within a National Register Historic District, City Landmark Historic District, or Conservation Area.

Envision San José 2040 General Plan

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

General Plan Policies: Cultural Resource Impacts	
Archaeology and Paleontology	
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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
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.

4.5.3 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,13

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR - Cultural Resources Conclusions

As described in the DSAP FEIR, development under the DSAP would not result in significant disturbance of buried materials, including archaeological and paleontological resources, nor would it result in a significant impact to historic resources with the implementation of General Plan policies and existing regulations. These conclusions are consistent with the General Plan FEIR.

4.5.3.1 Historic Resources

Historic Structures

(Checklist Items 1)

Generally a resource is considered to be historically significant by the City of San José if it is listed or meets the criteria for listing on the National Register, California Register, or as a City Landmark on the City’s Historic Resources Inventory (HRI).

There are no historically significant structures identified on the project site. Additionally, there are no known historically significant structures adjacent to the project site. As disclosed in the DSAP FEIR, the nearest structures that contribute to the historic character of the area are Structures of Merit located at 441 Park Avenue (259-45-080) and 457 Park Avenue (259-45-074) located approximately 150 feet northeast of the project site. While Structures of Merit contribute to the historic fabric of the City and are eligible for inclusion on the City’s HRI, they are not considered a historic resource under CEQA.

Given the distance of the project site from the Structures of Merit, the project site would not significantly impact these structures. For these reasons, the proposed project would not significantly impact historic resources. **[Same as Approved Project (Less than Significant Impact)]**

4.5.3.2 *Archaeological and Paleontological Resources*

Archaeological Resources (Checklist Items 1, 2, and 4)

As described above, there are no recorded archaeological sites on or adjacent to the project site. Given the archaeological sensitivity of the DSAP area, previously unknown unrecorded archaeological deposits could be discovered during ground disturbing construction activities. Construction activities such as grading and excavation may result in the accidental destruction or disturbance of archaeological sites, which could convey important information about San José's history. Consistent with the implementation of the DSAP, implementation of the proposed project may result in substantial adverse effects on prehistoric or historic archaeological resources.

Paleontological Resources (Checklist Items 1, 2, and 3)

Development of the project site has a low potential to impact undiscovered paleontological resources, based on the age and type of surface soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials. Since the project includes the excavation of one below grade parking level, the project has the potential for encountering paleontological deposits during construction. Therefore, construction activities may result in the accidental destruction or disturbance of paleontological resources, which could convey important information. Although not anticipated, construction activities associated with implementation of the proposed project could result in a significant impact to paleontological resources, if encountered.

Standard Measures Included in the Project to Reduce and Avoid Impacts to Archaeological and Paleontological Resources

Consistent with the DSAP FEIR, the following measures would apply to the proposed project during construction to reduce and avoid impacts to as yet unidentified archaeological resources:

- **Stop Work and Evaluate Unanticipated Finds.** If buried cultural deposits are encountered during project activities, all work within 50 feet of the find should be redirected. A qualified archaeologist shall: (1) evaluate the find to determine if it meets the CEQA definition of a historical or archaeological resource; and (2) provide project-specific recommendations regarding the disposition of the find. The results of any archaeological investigation will be submitted to the NWIC.

If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation. If the find does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Avoidance may be accomplished through redesign, conservation easements, or site capping.

If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the evaluating archaeologist. Upon completion of the archaeological evaluation, a report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the NWIC.

- **Follow Statutory Procedures if Human Remains are Encountered.** Pursuant to Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the remains are of Native American origin, the Coroner shall notify the Native American Heritage Commission (NAHC) who shall attempt to identify descendants of the deceased Native American to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist should recover scientifically valuable information, as appropriate and in accordance with the recommendations of the Native Americans. Upon completion of analysis, as appropriate, the archaeologist will prepare a report documenting the methods and results of the investigation. This report will be submitted to the NWIC.

If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Given that the Archaeological Records Search and Limited Literature Report completed for the project site recommends monitoring during construction (since the general project area has moderate sensitivity for subsurface archaeological materials and the potential for subsurface construction to expose and impact these resources), the following standard measures shall apply:

- If no resources are discovered, the consulting archaeologist shall submit a report to the City's Supervising Environmental Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
- After evaluation of the deposits for determination of significance as defined by CEQA guidelines, the archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Supervising Environmental Planner. The report(s) shall identify any program mitigation that the developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).

- A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for approval prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.

The following measures would be implemented to reduce and avoid impacts to as yet unidentified paleontological resources:

- **Provide Preconstruction Worker Awareness Training.** The project proponent will ensure that all construction personnel receive paleontological resources awareness training that includes information on the possibility of encountering fossils during construction; the types of fossils likely to be seen, based on past finds in the project area; and proper procedures in the event fossils are encountered. Worker training will be prepared and presented by a qualified paleontologist.
- **Stop Work.** If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The City will be responsible for ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

With implementation of the above standard measures and General Plan policies, the proposed project would not result in a significant impact to archaeological and paleontological resources. This conclusion is consistent with the analysis in the DSAP FEIR and complies with the General Plan as addressed in the General Plan FEIR. **[Same as Approved Project (Less than Significant Impact)]**

4.5.4 Conclusion

With implementation of the above standard measures, the proposed project would not result in any new or more significant impacts to archaeological, paleontological or historic resources than addressed in the DSAP FEIR and General Plan FEIR.

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

4.6 GEOLOGY AND SOILS

The following discussion is based on a Geotechnical Investigation prepared by *Pacific Geotechnical Engineering* in June 2014. A copy of this report is included as Appendix C of this Addendum.

4.6.1 Setting

4.6.1.1 *Regional Geology*

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

4.6.1.2 *On-Site Geologic Conditions*

Soils and Groundwater

The project site has an elevation of approximately 90 feet above mean sea level (amsl). Based on a subsurface investigation of the site, the soils consists of loose fill comprised of clay, sandy clay clayey sands to the depths of about two to four feet below ground surface (bgs). Native soils below the fills consisted of stiff, high plasticity clay to depths of about six to seven feet bgs. The clay is underlain by stiff clay with intermediate plasticity to depths ranging from 13 to 15 feet bgs. These soils are underlain by interbedded layers of medium dense clayey sands, silty sands, sandy gravel and gravelly sand, and firm stiff sands. Based on the review of soil boring logs for the investigation, cohesive soils occur to a depth of about 10 feet bgs, and interbedded layers of fine and coarse grained materials occur to a depth of 80 feet bgs (which is the maximum depth explored at the site).

Soil layers (specifically layers with a high level of clay content) on the project site have a moderate to high expansion potential. Expansive soils are subject to volume changes (shrink or swell) due to variations in moisture content. Since clayey soils from six to seven feet bgs have high plasticity, this indicates that these soils have a high expansion potential and the soils with intermediate plasticity (from 13 to 15 bgs) indicate moderate expansion potential.

Groundwater was encountered during subsurface explorations at 13 to 18 feet bgs. The historical high groundwater level at the site is approximately 22 feet bgs based on California Geological Survey data. Fluctuations in the groundwater level may occur due to seasonal variations in rainfall and temperature, nearby water courses, pumping from wells, and groundwater recharge.

Seismicity and Seismic Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. The significant earthquakes that occur in the Bay Area are generally associated with the crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trend in the northwesterly direction.

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone or in a County of Santa Clara Earthquake Fault Zone. Since no known active or potentially active faults cross the site, the potential for fault rupture to occur across the site is low.

Nearby active or potentially active faults include the San Andreas fault located approximately 11 miles southwest of the site, Hayward fault (southeast extension) located approximately five miles east of the site, Monte Vista-Shannon located approximately seven miles southwest of the site, and Calaveras fault (central segment) located approximately eight miles east of the site. Due to the proximity of the project site to these faults, ground shaking, ground failure, or liquefaction due to an earthquake could cause damage to structures.

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loosely water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level.

The project site is located within a designated County of Santa Clara and State of California Liquefaction Hazard Zone. The site was evaluated to assess liquefaction potential and the effects liquefaction may have on the proposed development. The liquefaction analysis was based on a modeled peak ground acceleration (g) of 0.5g (high intensity) and an earthquake magnitude of 7.0. The results of the liquefaction analysis indicate that some of the underlying sands may liquefy during a seismic event. The liquefaction-induced ground settlement was estimated to be three-quarters of one inch to one-inch at groundwater level of 18 feet bgs and one to 1.25-inches at a groundwater level of 13 feet bgs.

Seismically-Induced Differential Settlements and Lateral Spreading

Differential (uneven) settlement is associated with loose unsaturated sands and gravels. These soils typically settle during strong seismic shaking. Soils that are variable in nature and contain organic materials are more susceptible to differential settlement than uniform soils. The settlement of a structure is the magnitude of a foundation's downward movement.¹³ Differential settlement during seismic shaking occurs when the foundation settles unevenly, which can cause one part of a structure to settle into the ground more than other which could cause damage to buildings, roadways, utilities, and hardscape improvements. The sandy layers on-site were generally below 15 feet bgs and were primarily non-loose silty or clayey sand. Some sand and sandy gravel layers were, however, identified in on-site soils; therefore, differential settlement could occur on-site during a seismic event.

¹³ California Geological Survey. *Note 33*.

<http://www.conservation.ca.gov/cgs/information/publications/cgs_notes/note_33/Pages/index.aspx>. Accessed April 14, 2015.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or “free” face such as an open body of water, channel, or excavation. Given the flat topography of the site and surrounding area and lack of open faces, the risk of lateral spreading is low.

Landslides

The site is not located within an area zoned by the State of California as having potential for seismically induced landslide hazards.¹⁴ The project site is relatively flat and, therefore, the probability of landsliding occurring at the site during a seismic event is low.

4.6.1.3 *Applicable Plans, Policies and Regulations*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2014 Building Standards Code.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2013 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

¹⁴ California Geological Survey. *Seismic Hazard Zones, San José West Quadrangle*. February 2002.

Envision San José 2040 General Plan

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

General Plan Policies: Geology, Soils, and Seismic Hazards	
Seismic Hazards	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
Policy EC-3.3	The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
Policy EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
Policy EC-3.6	Restrict development in close proximity to water retention levees or dams unless it is demonstrated that such facilities will be stable and remain intact during and following an earthquake.
Action EC-3.8	Maintain and update Citywide seismic hazard maps for planning purposes on an on-going basis.
Action EC-3.9	Revise and update provisions of the City of San José Geologic Hazard Ordinance, including geologic hazard zones, as new information becomes available from state and federal agencies on faults, earthquake induced landsliding, liquefaction, and/or lateral spreading.
Action EC-3.10	Require that a Certificate of Geologic Hazard Clearance be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones related to seismic hazards.
Action EC-3.11	Make information available to residents and businesses on ways to reduce seismic hazards and emergency preparedness for an earthquake in conjunction with regional, state and federal agencies such as the Association of Bay Area Governments (ABAG) and the United States Geological Survey (USGS).

Geologic and Soil Hazards	
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.3	Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
Policy EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.6.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
b. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
c. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
d. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2013), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

DSAP FEIR - Geology and Soils Conclusions

As described in the DSAP FEIR, development under the DSAP could contribute to significant impacts related to subsurface geological conditions. The implementation of mitigation measures for geologic hazards, erosion, and groundwater levels would reduce geologic and soil impacts to the existing physical environment to a less than significant level.

4.6.2.1 *Geologic Impacts of the Proposed Project*

Soil and Seismic Hazards

(Checklist Items 1)

The project is not located within an Alquist-Priolo fault zone and fault rupture is not likely to occur at the project site or the immediate surrounding. The proposed project would not be exposed to substantial slope instability, or landslide-related hazards based on the soils present on the site. Therefore, the project would not risk exacerbating environmental hazards or risks on the site through the construction of the proposed development.

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

Soil Erosion Hazards

(Checklist Item 2)

The project site is flat and developed with approximately 1.1 acres of exposed soil in landscaped areas. Ground disturbance would be required for removal of the existing pavement, grading, trenching, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

Standard Permit Conditions: The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. In addition, the City of San José Department of Public Works requires a grading permit to be obtained prior to the issuance of a Public Works Clearance. These standard practices, including the measures outlined below, would ensure that future buildings on the site are designed properly to account for the presence of locally compressible and potentially liquefiable soils on the site.

- The project shall conform to the recommendations in engineering reports for the project including the overexcavation and compaction of existing soils on the site and the design considerations for the proposed building foundations.
- The project shall prepare and implement an Erosion Control Plan in conformance with the requirements of the Department of Public Works.

The project, with the implementation of standard engineering practices as outlined above, would not result in significant soil impacts from erosion.

Impacts of Dewatering on Ground Settlement

(Checklist Item 3)

Groundwater at the project site has been encountered from 13 to 18 bgs. The below grade structure would require soil excavation to approximately 10 feet bgs. Therefore, the project could risk exacerbating environmental hazards or risks on the site through the construction of the proposed development. If groundwater is encountered during construction, dewatering and special soil preparation may be necessary to allow construction in a dry condition and on a stable subgrade. Dewatering activities that lower groundwater level could increase the effective stress on underlying sediments, potentially resulting in ground settlements and damage to structures, roadways, and/or utilities.

Impact GEO-1: Dewatering activities could impact underlying sediments and result in ground settlements and damage to structures, hardscapes or utilities on-site.

Mitigation Measures: Implementation of the following mitigation measures would reduce the impacts of dewatering activities on ground settlements to a less than significant level.

MM GEO-1.1: Prior to the commencement of construction, soil borings shall be advanced and depth to groundwater levels shall be evaluated. Modification to the project foundation design (which would require approval by the City) may be necessary based on the encountered groundwater depth.

MM GEO-1.2: If dewatering is needed, the design-level geotechnical investigations shall evaluate the underlying sediments and determine the potential for settlements to occur on the site. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

With implementation of the above mitigation measures, the project would not result in any new or more significant ground settlement impacts (from dewatering) than identified in the certified DSAP FEIR. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

Soil Impacts

(Checklist Item 4)

The fill materials (which consist of clay and sandy clay) on the project site extend to approximately four feet bgs and native soils underlay these fill materials. The project would excavate soils to a depth of approximately 10 feet bgs, and therefore, most fill materials would be removed during excavation. Where fill materials remain, the fills would be removed and re-compacted prior to construction of proposed buildings or improvements, such as concrete pavements.

The primary soil considerations on the project site are the presence of highly expansive soils from six to seven feet bgs and moderately expansive soils from seven to 14 feet bgs. The proposed below grade garage would occur in soils with intermediate plasticity (which have a moderate expansion potential). Paved concrete/exterior flatwork at the ground surface would be constructed on high expansion potential clay. Changes in soil moisture content in expansive soils can result from rainfall,

landscape irrigation, perched groundwater, and drought. Changes in soil moisture could result in unacceptable settlement or heave of structures (which can cause the lifting of a building or other structures during periods of high moisture), concrete slabs or pavements supported on expansive soil.

Impact GEO – 2: The buildings and pavement constructed as a part of the project could be subject to soil hazards related to expansive soils and settlement or heave of structures. **(Significant Impact)**

Mitigation Measures: Implementation of the following mitigation measures would reduce the impacts of expansive soils to a less than significant level:

MM GEO – 2.1: Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils, unacceptable settlement, or heave of structures. Options to address these conditions can include moisture conditioning and controlled compaction of the soils; 2) support structures on special foundations such as post-tensioned slabs or drilled piers and grade beams; 3) support concrete slabs-on-grade on a layer of non-expansive fill, and 4) lime treat expansive soils to reduce their expansive potential.

MM GEO – 2.2: The below grade parking garage slab shall consist of either a structural mat slab or conventional concrete slab-on-grade (with conventional footings). To reduce the potential impact of expansive soil, concrete slabs (garage slab and exterior concrete slabs) shall be constructed on a minimum 12-inch thick layer of non-expansive fill over a section of properly moisture conditioned and compacted on-site soil, or as otherwise recommended by geotechnical engineer and approved by the City of San José.

Implementation of the above mitigation measures would substantially reduce adverse effects on proposed improvements associated with expansive soil conditions on the site.

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

Seismic and Liquefaction-Induced Hazards

(Checklist Items 1 and 3)

The proposed development would be located in an area that is seismically active and subject to ground shaking. Differential settlement could occur on-site due to the presence of sandy soil layers. Additionally, the soils on-site are liquefiable and could result in liquefaction-induced ground settlement. The proposed project would implement the standard permit conditions described below, to reduce impacts from seismicity and seismic-related hazards to a less than significant level.

Standard Permit Conditions: Consistent with measures listed in the DSAP FEIR, the project would implement the following measures to reduce or avoid potential damage from seismic shaking and liquefaction.

- Design-level geotechnical investigations shall be completed and identify site-specific ground failure hazards such as liquefaction and the appropriate techniques to minimize risks to people and structures. The project applicant shall be designed and constructed in accordance with the most recent California Building Code, which contains regulations to govern the construction of structures in California. Adherence to the California Building Code will ensure the proposed development resist minor earthquakes without damage and major earthquakes without collapse.

With implementation of the above mitigation measures, the project would not result in any new or more significant seismic hazard impacts than identified in the certified DSAP FEIR and is consistent with the General Plan FEIR.

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

Wastewater Disposal Systems

(Checklist Item 5)

The proposed development's utilities would connect to the City's existing utilities (e.g., sewer system) would not require septic tanks or alternative wastewater disposal systems.

[Same Impact as Approved Project (No Impact)]

4.6.3 Conclusion

The proposed project would not result in any new or more significant geologic or soil related impacts than addressed in the DSAP FEIR and is consistent with the General Plan FEIR.

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

The proposed project would not require septic tanks or alternative wastewater disposal systems.

[Same Impact as Approved Project (No Impact)]

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on the Air Quality and GHG Assessment completed by *Illingworth & Rodkin* in October 2015. The assessment is provided in Appendix A of this Initial Study.

4.7.1 Setting

Global climate change refers to changes in long-term weather patterns including temperatures, precipitation, and wind patterns. Global temperatures are affected by atmospheric gases such as carbon dioxide, water vapor, and methane. These gases are mostly transparent to incoming solar radiation, but are effective in absorbing infrared radiation (energy emitted from the earth). As a result, the heat that otherwise would have escaped back into outer space is now retained, altering the earth's energy balance. This is known as the "greenhouse effect".

Gases that trap heat in the atmosphere are called greenhouse gases (GHG). In addition to carbon dioxide (CO₂) and methane, other GHGs include nitrous oxide, chlorofluorocarbons (CFCs) and hydrofluorocarbons (HCFCs). Each GHG has a different ability to trap heat in the atmosphere. CO₂ is the most abundant GHG, but has the lowest Global Warming Potential (GWP) rating. The other GHGs have a higher GWP, expressed in terms of carbon dioxide equivalents (CO₂e). CO₂ emissions account for about 85 percent of the CO₂e emissions in the U.S.

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.1 *Existing On-Site GHG Emissions*

The project site is currently developed with an unoccupied office building and surface parking. Low GHG emissions may be generated from motor vehicles traveling to and from the site.

4.7.1.2 *Applicable Plans, Policies and Regulations*

California Assembly Bill 32

With the passage of AB 32 (Global Warming Solutions Act of 2006), the State of California made a commitment to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020, which represents a 30 percent decrease over current levels. CARB's Discrete Early Actions include maximizing energy efficient building and appliance standards, pursuing additional efficiency efforts, including new technologies and new policy and implementation mechanisms, and pursuing comparable investment in energy efficiency by all retail providers of electricity in California (including both investor-owned and publicly-owned utilities). In December 2008, the ARB approved the *Climate Change Scoping Plan*, which proposes a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals.

In addition to AB 32, Executive Order S-3-05 (EO S-3-05) established a reduction target of 80 percent below 1990 levels by 2050.

California Senate Bill 375

Senate Bill 375 (SB 375), known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 when compared to emissions in 2005. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹⁵ The four major requirements of SB 375 are:

1. Metropolitan Planning Organizations (MPOs)¹⁶ must meet greenhouse gas emission reduction targets for automobiles and light trucks through land use and transportation strategies.
2. MPOs must create a Sustainable Communities Strategy (SCS), to provide an integrated land use/transportation plan for meeting regional targets, consistent with the RTP.
3. Regional housing elements and transportation plans must be synchronized on eight-year schedules, with Regional Housing Needs Assessment (RHNA) allocation numbers conforming to the SCS.
4. MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the CTC.

Consistent with the requirements of SB 375, the Metropolitan Planning Commission (MTC) is partnering with the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), and the Bay Conservation and Development Commission (BCDC) to prepare the region's SCS as part of the RTP process.¹⁷ The SCS is referred to as *Plan Bay Area*.

Plan Bay Area is a long-range integrated transportation and land-use/housing strategy through 2040 for the San Francisco Bay Area to meet the requirements of California's landmark 2008 Senate Bill 375, which calls on each of the state's 18 metropolitan areas to develop a Sustainable Communities Strategy to accommodate future population growth and reduce greenhouse gas emissions from cars and light trucks. The strategy is intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions. The DSAP area is within a PDA.

¹⁵ The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

¹⁶ The Metropolitan Transportation Commission is the MPO for the San Francisco Bay Area, including Santa Clara County.

¹⁷ ABAG, BAAQMD, BCDC, and MTC. "One Bay Area Frequently Asked Questions." http://www.onebayarea.org/plan_bay_area/faq.htm#31.

On July 18, 2013, the final *Plan Bay Area* was jointly approved by the ABAG Executive Board and by the MTC. The two agencies also adopted the final EIR for the *Plan Bay Area*.¹⁸

2010 Bay Area Clean Air Plan

As described in Section 4.4.2.1, the Bay Area 2010 Clean Air Plan (CAP) addresses air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures and performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

BAAQMD CEQA Guidelines

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines.¹⁹ These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the BAAQMD CEQA Guidelines, if a project would result in operational-related greenhouse gas emissions of 1,100 metric tons (MT) (also called the “bright line” threshold), or 4.6 metric tons per service population²⁰ of carbon dioxide equivalents (CO₂e) per year or more, it would make a cumulatively considerable contribution to greenhouse gas emissions and result in a cumulatively significant impact to global climate change. In jurisdictions where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative greenhouse gas emission impacts to a less than significant level.²¹ The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

City of San José Municipal Code

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

¹⁸ ABAG, BAAQMD, BCDC, and MTC. Regional Initiatives; Plan Bay Area. <http://onebayarea.org/regional-initiatives/plan-bay-area.html>

¹⁹ As described in Section 4.4.2.2, the Superior Court found that adoption of thresholds by the BAAQMD in its CEQA Air Quality Guidelines is a CEQA project and BAAQMD is not to disseminate officially sanctioned air quality thresholds of significance until BAAQMD fully complies with CEQA. However, the ruling in the case does not equate to a finding that the quantitative metrics in the BAAQMD thresholds are incorrect or unreliable for meeting AB 32's climate protection goals. Per the State CEQA Guidelines [Section 15064(b)], the determination of whether a project may have a significant effect on the environment is subject to the discretion of each individual lead agency, based upon substantial evidence. For the assessment of GHG emissions impacts the City of San José analyzes project conformance with its adopted GHG Reduction Strategy as allowed for in the CEQA Guidelines and BAAQMD CEQA Air Quality Guidelines.

²⁰ Service population is defined as the sum of the number of residents and the number of employees at the development.

²¹ The required components of a “qualified” Greenhouse Gas Reduction Strategy or Plan are described in both Section 15183.5 of the CEQA Guidelines and the BAAQMD CEQA Air Quality Guidelines (amended 2012).

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

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are incorporated in the City’s GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City’s Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the *CEQA Guidelines* and standards for “qualified plans” as set forth by BAAQMD.

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

The primary test for consistency with the Greenhouse Gas Reduction Strategy is conformance to the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for all development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project’s consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

Additionally, various policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to GHG, as listed in the following table.

General Plan Policies: Greenhouse Gas Emissions	
Built Environmental and Energy	
Policy MS-1.1:	Continue to demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with and/or exceed the City’s Green Building Ordinance and City Council Policies as well as State or regional policies which require that projects incorporate various green building principles into their design and construction.

General Plan Policies: Greenhouse Gas Emissions	
Policy MS-14.4:	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-17.2:	Ensure that development within San José is planned and built in a manner consistent with sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area will only be approved at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development within San José's urbanized areas.
Land Use and Transportation Measures	
Policy TR-1.1:	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-2.8:	Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-2.18:	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
Policy TR-3.3:	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-8.8:	Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rent of a parking space is separated from the rent or sale price for a residential unit or for non-residential building square footage.
Policy TR-8.9:	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

4.7.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,15

DSAP FEIR – Greenhouse Gas Emissions Conclusions

The DSAP FEIR disclosed that implementation of the DSAP would not result in a significant impact related to greenhouse gases through 2020. The build-out of the DSAP would not make a considerable contribution to the significant unavoidable cumulative impact to global climate change.

4.7.2.1 Greenhouse Gas Emissions Impacts

Overview of Impact Assessment

GHG emissions worldwide cumulatively contribute to the significant adverse environmental impacts of global climate change. No single land use project could generate sufficient GHG emissions on its own to noticeably change the global average temperature. The combination of GHG emissions from past, present, and future projects in San José, the entire state of California, across the nation and around the world, contribute cumulatively to the phenomenon of global climate change and its associated environmental impacts.

Per the CEQA Guidelines, a lead agency may analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions that has been adopted in a public process following environmental review. The City of San José has an adopted GHG Reduction Strategy that was approved by the City Council in December 2015 in conjunction with the Envision San José 2040 General Plan Supplemental EIR. The environmental impacts of the GHG Reduction Strategy were analyzed in the Envision San José 2040 General Plan Final EIR. The City’s projected emissions and the GHG Reduction Strategy are consistent with measures necessary to meet statewide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan.

The following discussion focuses on whether project emissions represent a cumulatively considerable contribution to climate change as determined by consistency with City of San José and statewide efforts to curb GHG emissions. As previously noted, projects that are consistent with the City’s

adopted GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

Operational Emissions (Checklist Item 1)

The proposed project would develop of up to 123 residential units and approximately 1,000 square feet of retail uses in on a 1.72-acre site. This proposed development conforms to the site's General Plan land use designation of *Downtown*, which allows up to 800 dwelling units per acre with a FAR of up to 30 within the Diridon Station Area Plan.

GHG Emissions

The projected operational greenhouse gas emissions were calculated using the CalEEMod model. The CalEEMod provides emissions for transportation, areas sources, electricity consumption, natural gas combustion, electricity usage associated with water usage and wastewater discharge, and solid waste land filling and transport. The year 2018 was analyzed for this project since it is the first year that the project could conceivably be occupied. The estimated annual operational emissions rate for the GHG emissions generated by the proposed project is 1,017 metric tons of CO₂e per year, which is below BAAQMD's brightline threshold of 1,100 metric tons of CO₂e per year (refer to Table 4.7-1 below).

Scenario	2017 GHG Emissions
Area	7
Energy Consumption	228
Mobile	733
Solid Waste Generation	26
Water Usage	21
Total emissions	1,017
<i>BAAQMD Thresholds</i>	<i>1,100 CO</i>

Since the projected operational GHG emissions rate would be below the bright line threshold, the project by itself it would not make a cumulatively considerable contribution to greenhouse gas emissions and not result in a cumulatively significant impact to global climate change.

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

Construction Emissions

The proposed project would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. The proposed project's construction emissions would be temporary. Neither the City of San José nor BAAQMD has established a quantitative threshold or

standard for determining whether a project's construction-related GHG emissions are significant. The projected emissions of CO₂e from construction is 440 metric tons of CO₂e per year. Because project construction would be a temporary condition (21 month construction period) and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the increase in emissions would be less than significant.

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

4.7.2.2 Conformance with Applicable Plans, Policies and Regulations
(Checklist Item 2)

Greenhouse Gas Reduction Strategy

As discussed in Section 4.7.1.2, *Applicable Plans, Policies and Regulations* above, the City of San José has an adopted GHG Reduction Strategy which includes both mandatory measures for all projects and other measures which are considered voluntary.

Conformance to the General Plan Land Use/Transportation Diagram and supporting policies and compliance with the mandatory measures (and any voluntary measures required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. The proposed project is consistent with the Land Use/Transportation Diagram designation of *Downtown* and incorporates applicable mandatory measures of the GHG Reduction Strategy (refer to the GHG Reduction Strategy Conformance Checklist in Appendix D), including implementation of green building measures regarding site design and features to encourage automobile-alternative modes of transportation (e.g., bicycle storage facilities proposed to be located in the parking garage). For these reasons, the project is consistent with the City's GHG Reduction Strategy as addressed in the General Plan FEIR and General Supplemental EIR.

Consistency with Plan Bay Area
(SB 375 Implementation)

The project site is within the San José Greater Downtown PDA identified by the City of San José and in Plan Bay Area. Development within the Greater Downtown PDA would locate housing close to existing jobs and transportation networks to reduce GHG emissions. The PDAs contained in Plan Bay Area were identified by local jurisdictions, therefore, the project's conformance with SB 375/Plan Bay Area is based on the project's adherence to the densities and development standards of the City's General Plan. The project's location within greater downtown area of San José would provide accessibility to jobs and transit, and ensure GHG emissions from vehicular travel would be minimized. The project, therefore, is consistent with Plan Bay Area.

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

4.7.3 Conclusion

The proposed development would result in less than significant operational GHG emissions, and would not result in any new or more significant impacts than disclosed in the DSAP FEIR, consistent with the conclusions in the General Plan FEIR and General Plan Supplement. The proposed project would be consistent with applicable GHG plans, policies and regulations.

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

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Summary of Environmental Conditions Memorandum prepared by *Environ* in January 2015 and a Phase I and Phase II Environmental Site Assessment completed by *Toxichem Management Systems, Inc.* in August 2006 (completed for the Park and Delmas Demolition Project Initial Study approved by the City in 2009). A copy of the memorandum is included in Appendix E and the environmental site assessment is on file with the City of San José.

4.8.1 Setting

4.8.1.1 *Background Information*

Hazardous materials are commonly used by large institutions and commercial and industrial businesses. Hazardous materials include a broad range of common substances such as motor oil and fuel, pesticides, detergents, paint, and solvents. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed of, or released into the atmosphere in the event of an accident.

4.8.1.2 *Site Conditions*

On-site Historic Uses and Sources of Contamination

The 1.72-acre project site is mostly vacant with an unoccupied single-story office building. From the 1890s to 2006, the project site was occupied by four residences, one church/education building, one church and one ancillary building/shed. One of the four residences included an addition which was occupied by a grocery store (from the early 1900s to the 1930s), radio repair shop (1940s), and other commercial business (1950s). These six buildings (four residences, church, and education building) and the ancillary building were demolished in 2009.

The existing office building on-site was constructed in 1956 and occupied by commercial businesses such as a photo supply company, accounting and insurance firms, and non-profit organizations from 1957 and until 2008.

Due to the presence of lead-based paint on the former on-site buildings (demolished in 2009), several environmental investigations of soil for lead were completed by Toxichem Management Systems (Toxichem) in September 2005, December 2005, and April 2006 (a part of a Phase I and II ESA completed in August 2006). In July 2006, Toxichem also collected shallow soil samples during an investigation of metals (including lead). The subsurface investigations indicated that lead concentrations in near surface soil in many areas throughout the site were elevated above the environmental regulatory cleanup level of 80 milligrams per kilogram (mg/kg). The elevated lead concentrations were likely due to the flaking of lead-based paint from the former on-site structures. Arsenic and cadmium concentrations were also elevated in four coincident site locations.

Hazardous Materials Sites: Pursuant to Government Code Section 65962.5

Section 65962.5 of the Government Code requires California Environmental Protection Agency (Cal EPA) to develop and update (at least annually) a list of hazardous waste and substances sites. This list is used by the State, local agencies, and developers to comply with CEQA requirements. The list includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).

Based on a search of the state regulatory databases (e.g., Geotracker database managed by DTSC, Solid Waste Information System (SWIS) Facilities managed by CalRecycle, and EnviroStor managed by the California Department of Substances Control), the project site is not listed as a hazardous waste or substances site.

Lead Based Paint and Asbestos

Due to the age of the existing commercial building, constructed prior to 1978, lead-based paint and asbestos-containing materials (ACMs) may be present. Construction activities that disturb lead-based paint or ACMs require pre-construction surveys and special handling during demolition to avoid their release into the environment. Since the existing office building was constructed in the 1950s, the building likely contains lead-based paint and ACMs.

4.8.1.3 *Off-site Sources of Contamination*

The project site is primarily surrounded by commercial and residential uses. Based on a review of regulatory databases which list hazardous waste and substances sites, the surrounding properties are not expected to present a significant environmental concern for the project site. The DTSC, SWRCB and CalRecycle regulatory databases were reviewed to identify known or suspected off-site sources of contamination. A dry cleaners (398 West San Carlos Street, 270 feet south of the site), automobile radiator repair business (534 Park Avenue, 0.2 miles west), and a former automobile repair business (331 Gifford Avenue, 0.1 miles south) are listed in the SWRCB Geotracker site (as leaking underground storage tank [LUST] cases). Approximately 10 other LUST properties were listed within one quarter mile of the project site. All LUST properties in the vicinity of the site are, however, listed as closed cases since the regulatory agencies determined that no further action is required since actions were taken to adequately remediate the release. The Adobe Systems Tower site is located at 345 Park Avenue (0.2 miles east of the site) and 59 South Autumn Street (0.2 miles west of the site) are open cases listed on SWRCB's Geotracker as a cleanup program sites; however, these facilities are not considered an off-site source of contamination due to the distance of the facility.

Two properties (333 West San Carlos Street, 0.2 miles east of the site and 331 Gifford Avenue, 0.1 miles south of the site) were listed as cleanup sites on DTSC's Envirostor database; cleanup action was completed at these properties, and, therefore, the properties are not considered a potential contamination source for the project site.

4.8.1.4 *Other Hazards*

Airports

The Norman Y. Mineta San José International Airport is located approximately 2.5 miles northwest of the project site. Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport’s runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding 120 feet in height above ground would require submittal to the FAA for airspace safety review. As the proposed project has a maximum height of 55 feet at the top of roof and 61 feet at the top of parapet, notification to the FAA is not required, and the project would not be a potential aviation hazard.

Wildland Fire Hazards

The project site is located in an urban area and is not within a Very-High Fire Hazard Severity Zone for wildland fires.²²

4.8.1.5. *Applicable Plans, Policies and Regulations*

Airport Regulations

The primary hazard associated with airport facilities is the potential for accidents to occur as aircraft approach and depart the airport. The risk associated with accidents increase with the presence of tall buildings, high concentrations of people, and low-mobility uses that cannot respond quickly to emergencies. The principal means of reducing risks is to restrict land uses so as to minimize obstructions to aircraft and limit the number of people who might gather in areas most susceptible to aircraft accidents.²³

Aviation hazards are addressed at the federal level by the FAA, at a state level by Caltrans under the State Aeronautics Act, and at the local level by the Santa Clara County Airport Land Use Commission (ALUC) and City policies and plans. These regulations focus on the protection people on the ground and in the air.

Federal Aviation Regulations Part 77

Federal Aviation Regulation Part 77 sets forth standards and review requirements for the protection of airspace. Part 77 is administered by the FAA and includes the restrictions on the height of potential structures, use of reflective surfaces and flashing lights, electronic interference, and other potential hazards to aircraft in flight. Building height restrictions are intended to keep flight paths clear of structures that could interfere with takeoff and landing movements.

²² California Department of Forestry and Fire Protection. *Santa Clara County FHSZ Map*. November 6, 2007 Available at: http://calfire.ca.gov/fire_prevention/fhsz_maps_santaclara.php. Accessed September 21, 2015.

²³ Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan, Norman Y. Mineta San Jose International Airport*. 2010.

Comprehensive Land Use Plan

In accordance with the California State Aeronautics Act, the Santa Clara County ALUC adopted a Comprehensive Land Use Plan (CLUP) for the Mineta San José International Airport. The CLUP establishes provisions for the regulation of land use, safety, and noise within the airport's Airport Influence Area (AIA) to minimize the public's exposure to safety hazards and excessive noise. All areas within the AIA should be regarded as potentially subject to aircraft over-flights and are subject to land use compatibility policies in the CLUP.²⁴ The CLUP also establishes a Height Restriction Area, based on the FAA Part 77 imaginary surfaces and safety zones with appropriate land use types and density limitations for each zone. The ALUC determined that the City of San José 2040 General Plan, and DSAP implementing the General Plan, is consistent with the CLUP.

In accordance with the San José Airport CLUP Policy G-5 and General Plan Policy TR-14.4, dedication of an aviation easement to the City of San José shall be required by the applicant and acceptance of aircraft noise impacts by the City shall be required as a condition of approval on all projects, with the exception of reconstruction projects, located within an Airport Influence Area.²⁵ The easement would set forth maximum elevation limits or a "no build easement" in accordance with FAA and CLUP standards. As described in Section 4.3 *Noise*, the project site is not within the 65 CNEL (maximum allowable noise level considered compatible with residential uses) noise contour for the airport.

City of San José Policies

Envision San José 2040 General Plan

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

²⁴ Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan, Norman Y. Mineta San Jose International Airport*. 2010.

²⁵ As defined by San Jose Airport CLUP, a reconstruction project includes the rebuilding of a legally established structure located in any of the CLUP safety zones, to its original conditions (typically due to a fire, or earthquake damage or destruction).

General Plan Policies: Hazards and Hazardous Materials	
Environmental Contamination	
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Safe Airport	
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.

General Plan Policies: Hazards and Hazardous Materials	
Policy TR-14.3	For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports.
Policy TR-14.4	Require avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Community Health, Safety, and Wellness	
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.8.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,16
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,16
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9,16

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17

DSAP FEIR - Hazards and Hazardous Materials Conclusions

With implementation of General Plan policies, appropriate clean-up actions, and precautionary measures, development under the DSAP would not expose construction workers, the public, or environment to significant hazards related to soil or groundwater contamination. Development under the DSAP would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or through reasonably foreseeable accident conditions. The project would not create a significant impact associated with the handling of

hazardous materials during demolition and construction activities or safety hazards for people residing or working in the DSAP area. Implementation of the DSAP would not create a significant impact associated with emergency response, wildland fires. These conclusions are consistent with the General Plan FEIR.

4.8.2.1 *Project Impacts on the Public and the Environment*
(Checklist Items 1, 2, 3 and 4)

The project site is not listed as a hazardous waste or substances site on a regulatory database, and is, therefore, not anticipated to result in a significant hazards to the public or environmental due to accidental chemical releases.

The proposed mixed-use residential development would routinely use limited amounts of cleaning materials and would not generate substantial hazardous emissions or accidental chemical releases from hazardous materials use, storage, or transport. As applicable, current regulations and programs for regulated hazardous materials use would reduce impacts to a less than significant level. The implementation of mitigation measures MM HAZ-1, MM HAZ-2.1-2.2, and MM HAZ-3.1-3.2 during construction would ensure that contaminated soils are properly stored, and transported for disposal, to avoid chemical releases into the environment.

The nearest school (Gardner Academy at 595 Willis Avenue) is approximately 0.4 miles south of the project site; therefore, emissions during construction of the site would not have a significant impact on local schools.

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

Exposure of Hazardous Substances/Materials to Residents of the Project Site
(Checklist Items 2 and 4)

The project site is not listed as a hazardous waste or substances site on a regulatory database. However, environmental contamination, specifically elevated concentration levels of lead from lead-based paint of the site's former structures, at the project site was identified in 2005 and 2006 (based on soil sample analytical results from the Phase I and II ESA completed in 2006). Remedial actions would, therefore, be implemented to prevent the exposure of future residents to elevated concentrations of lead (or other metals) in shallow soil.

The DSAP FEIR disclosed that direct exposure to contamination levels above the residential regulatory screening levels could pose a significant health risk to future sensitive uses in the DSAP area and that reevaluation of soil or groundwater management could be warranted when changes in land use or excavation into contaminated areas is proposed. The FEIR also indicates that specific requirements for investigations and/or cleanup actions would be determined during the supplemental review phase (i.e., at the time of specific development) and would be incorporated as conditions approval for any grading demolition or building permit. Consistent with the DSAP FEIR, the implementation of General Plan policies, the proposed clean-up actions, and precautionary measures (which are described in the mitigation measures MM HAZ-1, MM HAZ-2.1-2.2, and MM HAZ-3.1-3.2) would reduce the impacts of on-site soil or groundwater contamination on construction workers and surrounding environment.

Impact HAZ-1: Development of the project site could result in the release into the environment of elevated concentrations of metals in on-site soils.

Mitigation Measures: The implementation of the following measures would reduce human exposure to on-site soil contamination to a less than significant level.

MM HAZ-1: The project applicant shall excavate contaminated soil and transport off-site for disposal, and/or cap impacted soil on the project site with pavement, buildings, and/or other materials, and implement institutional/engineering controls to prevent future exposure to the contaminated soil. The project applicant shall work with an oversight agency (Santa Clara County Department of Environmental Health [SCCDEH] or California Department of Toxic Substances Control [DTSC]) to obtain confirmation that remediation work has been completed. Documentation of completion (e.g., reports, correspondences with regulatory agency, “No Further Action” letter, etc.) shall be submitted to the PBCE Supervising Environmental Planner and the Environmental Services Department (ESD) Compliance Officer/Hazardous Materials Specialist for review and approval prior to issuance of building permit.

Mitigation measure MM HAZ-1 is consistent with the measures to reduce and avoid impacts related to contamination disclosed in the DSAP FEIR.

Development of the project site would expose construction workers to contaminated soil which could result in potential hazards to workers or the environment.

Impact HAZ-2: Construction workers could be exposed to elevated levels of lead (and other metals), which could be hazardous to these workers. (**Significant Impact**)

Mitigation Measures: Consistent with the DSAP FEIR, implementation of the following mitigation measures would reduce hazards and hazardous materials impacts during construction to a less than significant level.

MM HAZ-2.1: A Site Management Plan (SMP) shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of lead-contaminated soils. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:

- Procedures for transporting and disposing the waste material generated during removal activities, if such transport and disposal is necessary
- Procedures for stockpiling soil on-site, if such stockpiling is necessary
- Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities

- Provisions for confirmation soil sampling as appropriate to obtain a “No Further Action” letter (or equivalent) from the state and/or local agency assuming oversight for the site
- Procedures to ensure that fill and cap materials are verified as clean
- truck routes
- Staging and loading procedures and record keeping requirements

The SMP shall be submitted to the City’s Department of Planning, Building and Code Enforcement (PBCE) and Environmental Services Department (ESD) for review and approval prior to issuance of grading permits. If the SMP is determined to be inadequate, at PBCE’s and ESD’s discretion, the SMP shall be submitted to an oversight regulatory agency (i.e., Santa Clara County Department of Environmental Health [SCCDEH]).

MM HAZ-2.2:

All contractors and subcontractors at the project site shall develop a health and safety plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Each Health and Safety plan shall be implemented under the direction of a Site Safety and Health Officer. The Health and Safety Plan shall include, but not limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils
- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities
- Emergency procedures and responsible personnel.

The HSP shall be submitted to the City’s Department of Planning, Building and Code Enforcement (PBCE) and Environmental Services Department (ESD) for review and approval prior to issuance of a grading permits. If the HSP is determined to be inadequate, at PBCE’s and ESD’s discretion, the HSP shall be submitted to an oversight regulatory agency (i.e., Santa Clara County Department of Environmental Health [SCCDEH]).

The implementation of the MM HAZ-2.1 and MM HAZ-2.2 would ensure that hazardous conditions on-site and the transport of contaminated soils would not result in a significant hazard to construction workers, the public or the environment. These measures are consistent with the measures disclosed in the DSAP FEIR.

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

Asbestos-Containing Materials and Lead-Based Paint (Existing On-site Building)
(Checklist Item 2)

In conformance with State and local laws, a visual inspection/pre-demolition survey and sampling, is required of the existing building on-site to determine the presence of asbestos-containing materials and/or lead-based paint. Given the age of the building on-site (constructed in the 1950s), demolition of the structure could expose construction workers or residents in the vicinity of the project site to harmful levels of ACMs or lead.

Standard Permit Conditions: Consistent with the DSAP FEIR, implementation of the approved standard permit conditions shall reduce impacts from lead-based paint and ACMs to a less than significant level:

- In accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, an asbestos survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of Bay Area Air Quality Management District (BAAQMD). Demolition and disposal of asbestos-containing materials (ACMs) will be completed in accordance with the procedures specified by BAAQMD's Regulation 11, Rule 2. A final report of methodologies and findings of the survey shall be submitted to the Building Division of PBCE prior to the issuance of grading or building permits.
- A lead-based paint survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If lead-based paint is identified, then federal and state construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified at the building, it shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Requirements set forth in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed. A final report of methodologies and findings of the survey shall be submitted to the Building Division of PBCE prior to the issuance of grading or building permits.

The DSAP FEIR concluded that conformance with regulatory requirements would result in a less than significant impact from ACMs and lead.

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

Impacts of Project on Aircraft Safety (Checklist Items 5 and 6)

The proposed mixed-use residential development would not be an aircraft safety hazard based on FAA height restriction criteria (i.e., the proposed project would be below the building height that would require FAA review). The project site is not within the vicinity of a private airstrip. For these reasons the project would not result in a significant aircraft safety hazard.

In accordance with the San José Airport CLUP Policy G-5 and General Plan Policy TR-14.4, dedication of an aviation easement (which would set forth building elevation limits in accordance with FAA and CLUP standards) to the City of San José would be implemented as a condition of approval.²⁶ **[Same Impact as Approved Project (Less Than Significant Impact)]**

Implementation of Safety Plans

(Checklist Item 7)

The proposed project would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan.

[Same Impact as Approved Project (No Impact)]

Wildland Fire Hazards

(Checklist Item 8)

The project site is not located near an urban-wildland interface and is not subject to hazards from wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.3 Conclusion

With the implementation of the above mitigation measures and standard permit conditions, hazardous substances/materials from the project site would not result in a significant impact to the public, future residents, or construction and maintenance workers. The proposed project would not result in any new or more significant hazards or hazardous materials impacts than addressed in the DSAP FEIR.

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

The project would not result in a significant aircraft hazard and is not in the vicinity of a private airstrip. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project would not impact any adopted emergency response/evacuation plans and is not subject to wildfire hazards. **[Same Impact as Approved Project (No Impact)]**

²⁶ As defined by San Jose Airport CLUP, a reconstruction project includes the rebuilding of a legally established structure located in any of the CLUP safety zones, to its original conditions (typically due to a fire, or earthquake damage or destruction).

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

The site is located between the Guadalupe River and Los Gatos Creek, approximately 500 feet from each, and 1500 feet upstream of their confluence at West Santa Clara Street. None of the hydrological conditions described in the DSAP FEIR for the project area have changed since the EIR was certified. Los Gatos Creek flows through the DSAP area, passing through a culvert under Park Avenue and converging with Guadalupe River at Santa Clara Street. Guadalupe River flows north to San Francisco Bay. The project site is not located in a flood hazard zone (i.e., a 100-year flood zone) identified by the Federal Emergency Management Agency (FEMA).²⁷ The project site is designated by FEMA as Zone D, which is designated for areas where there are possible but undetermined flood hazards, since no analysis of flood hazards has been completed by FEMA in these areas. The SCVWD has jurisdiction over Los Gatos Creek and the Guadalupe River. The SCVWD recently completed a flood control project on the Guadalupe River channel so that it can accommodate a 100-year storm event.

Runoff flows overland into the City-maintained storm drainage system, which is comprised of a network of inlets, manholes, pipes, outfalls, channels, and pump stations. Many of the storm drains in the DSAP area are 10 inches or 12 inches in diameter and are designed to accommodate a storm event that would statistically occur every two or three years. Therefore, many of the pipelines are in need of replacement in order to meet current requirements for accommodating the 10-year storm. Stormwater runoff from the DSAP area is conveyed to the Guadalupe River either directly or indirectly via Los Gatos Creek through 17 outfalls.

The 1.72 acre project site is covered with 28,130 square feet of impermeable surfaces, including a building and pavement. The majority of the site (46,875 square feet or 62.5 percent) is currently pervious. Normal vehicular use, windblown and other debris, and air pollution introduce sediments, trash, oil and grease and similar pollutants into the runoff that would flow from this site into the storm drain system, to the Guadalupe River, and ultimately to San Francisco Bay.

The DSAP area, including the subject site, is not located near large water bodies such as the San Francisco Bay and is not subject to inundation by seiche, tsunami, or mudflow.^{28, 29}

4.9.1.1 *Applicable Plans, Policies and Regulations*

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (US EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. Federal and state regulations are implemented at the

²⁷ The project site can be identified on FIRM Map Number 06085C0234H.

²⁸ A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. Seiches are often generated by small oscillations from earthquakes.

²⁹ Association of Bay Area Governments. *ABAG Geographic Information Systems, Hazard Maps, Tsunami Evacuation Planning Map for San Francisco Bay Area*. <http://www.abag.ca.gov/bayarea/eqmaps/tsunami>

regional level by water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

The Santa Clara Valley Water District (SCVWD) operates as the flood control agency for Santa Clara County. The SCVWD is also responsible for creek restoration, pollution prevention efforts, and groundwater recharge. The SCVWD's Water Resources Protection Ordinance and Well Ordinance require permits for all well construction and destruction work, most exploratory borings for groundwater exploration, and projects occurring on any SCVWD property or easement. The SCVWD along with 15 cities, the county, businesses, streamside property owners, and environmental interests set up the Water Resources Protection Collaborative, which has prepared and adopted *Guidelines and Standards for Land Use Near Streams*.

National Pollutant Discharge Elimination System

The U.S. EPA's regulations, as called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.).

NPDES General Construction Permit

The SWRCB has implemented a NPDES General Permit for Discharges of Stormwater Associated with Construction Activity ("General Construction Permit") for the State of California. Projects that would disturb more than one acre of land are required to submit a Notice of Intent and a Storm Water Pollution Prevention Plan (SWPPP) to the SWRCB to apply for coverage under the NPDES General Construction Permit. Construction activities subject to this permit include grading, clearing, or any activities that cause ground disturbance such as stockpiling or excavation. The SWPPP will include the site-specific best management practices (BMPs) to control erosion and sedimentation and maintain water quality during the construction phase, as well as BMPs to be implemented during the post-construction period.

Municipal Regional Stormwater NPDES Permit

In 2009, the San Francisco Bay RWQCB issued a regional NPDES permit to all Bay Area municipalities and flood control agencies that discharge directly to San Francisco Bay. The current permit is based in large part on an earlier joint NPDES Permit to Santa Clara County, the Santa Clara Valley Water District, and 13 of the cities within the County, including San José. This collection of municipalities and agencies formed an association called the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) to meet NPDES permit regulations by sharing resources and collaborating on projects of mutual benefit.

Under Provision C.3 of the Municipal Regional Stormwater NPDES Permit, development projects that create, add, or replace 10,000 square feet or more of impervious surface area are required to control post-development stormwater runoff through source control, site design, and treatment control BMPs. For special land use categories (e.g., auto services facilities, gas stations, restaurants, parking lots), the impervious surface threshold is 5,000 square feet. Most regulated projects have to

treat stormwater runoff using Low Impact Development (LID) measures such as bio-treatment, harvesting and re-use of runoff on-site, infiltration, and evapotranspiration.³⁰

In addition to water quality controls, the Regional Municipal NPDES permit has controls for hydromodification, which is defined as a change in stormwater runoff characteristics of a watershed resulting from changes in land use conditions (i.e., urbanization). For example, increasing impervious surfaces on a development site could increase peak runoff flow, volume, and duration, which can cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are projects in sub-watersheds that are 65 percent or more impervious.³¹

Based on the Hydromodification Management Applicability Map (as amended March 2009), the DSAP area is located within a sub-watershed that is greater than 65 percent impervious. Therefore, development under the DSAP, including the project site, is exempt from the HMP requirements in the Municipal Regional Stormwater NPDES Permit.

The Municipal Regional Stormwater NPDES Permit also includes a Trash Load Reduction provision (C.10) that requires an annual cleanup of 32 creek Trash Hot Spots and establishes phased goals to dramatically reduce trash loads from the storm sewer system. Provision C.11 establishes “Mercury Controls”, including the requirement for permittees to promote, facilitate, and/or participate in collection and recycling of mercury containing devices and equipment at the consumer level (e.g., thermometers, thermostats, switches, bulbs).

City of San José Policies

Post-Construction Urban Runoff Management Policy 6-29

This policy establishes all new and redevelopment projects to treat and minimize stormwater runoff and implement post-construction BMPs. The City of San José’s Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Under Policy 6-29, all new and redevelopment projects regardless of size and land use are encouraged to incorporate and maximize site design and pollutant source control practices. The policy requires projects that create, add, or replace 10,000 square feet or more of impervious surfaces to implement post-construction Treatment Control Measures (TCMs). This policy also established both structural and operational source control measures to prevent polluted runoff from entering the storm drain system. Specific source control requirements are addressed for Land Uses of Concern including, but not limited to restaurants, trash and recycling storage areas, and industrial uses.

³⁰ LID is a stormwater management strategy designed to manage runoff as close to its source as possible by incorporating a variety of natural and built features to reduce the rate of surface water runoff, filter pollutants out of runoff, facilitate infiltration of water into the ground surface, and reuse the water on-site.

³¹ Impervious surfaces prevent infiltration of stormwater and generally include rooftops, roadways, and parking lots.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit. Policy 8-14 may change based on future permit requirements.

Storm Drain Standards Improvement Process

The City does not have a level of service measure for the storm drainage system. It is City policy, however, for stormwater mains to have a minimum pipe size of 15 inches and to convey a storm event that has a 10 percent chance of occurring each year (often referred to as the "ten-year storm"). Up until about 15 years ago, the City's design standard for storm drains was the three-year storm event, which conformed to locally accepted standards at the time. As a result, it is estimated that only five percent of the City's storm drain system meet the current 10-year storm event standard. Storm pump stations (or lift stations) must be designed to accommodate the 100-year storm event. The standard design life of the mechanical and electrical components of a storm pump station is 10-25 years, although the average age of the City's pump stations is over 36 years. Due to undersized pipes and/or inefficient pump station performance, localized flooding and ponding are fairly common occurrences throughout San José.

In general, rehabilitation of the existing system is implemented through the City's Storm Sewer Capital Improvement Program (CIP). Current financing mechanisms for the Storm Sewer CIP include developer impact fees and storm sewer use fees. Developer impact fees are assessed on new projects to allow connection to the system. These "one-time" fees can only be used for capital improvements. Storm sewer use fees are assessed annually on properties and can be used for capital improvements or operation and maintenance activities.

The Storm Sewer CIP mainly addresses minor neighborhood drainage problems. To determine system-wide infrastructure needs to accommodate planned development based on regulatory requirements and design standards, the City is initiating a Storm Master Plan effort. The Storm Master Plan will include an implementation/priority plan and a financing plan. In the interim, the City will evaluate system capacity as future development is proposed. Although private developers are required to design the on-site storm drain system to meet the 10-year standard, they are only required to upgrade the downstream system if existing capacity is lacking *and* a capital improvement project has not been identified and/or funded for the area within the project timeline.

City of San José Grading Ordinance

All development projects, whether subject to the General Construction Permit or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

Envision San José 2040 General Plan

Various policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality, as listed in the following table.

General Plan Policies: Hydrology and Water Quality	
Flooding and Stormwater Runoff	
Policy EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the “100-year” flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
Policy EC-5.3	Preserve designated floodway areas for non-urban uses.
Policy EC-5.5	Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.13	As a part of the City’s policies for addressing the effects of climate change and projected water level rise in San Francisco Bay, it requires evaluation of projected inundation for development projects near San Francisco Bay or at flooding risk from local waterways which discharge to San Francisco Bay. For projects affected by increased water levels in San Francisco Bay, the City requires incorporation of mitigation measures prior to approval of development projects. Mitigation measures incorporated into project design or project location shall prevent exposure to substantial flooding hazards from increased water levels in San Francisco Bay during the anticipated useful lifetime of structures.
Action EC-5.14	Implement the requirements of FEMA relating to construction in Special Flood Hazards Areas as illustrated on Flood Insurance Rate Maps. Periodically update the City’s Flood Hazard Regulations to implement FEMA requirements.
Action EC-5.18	Maintain City storm drainage infrastructure in a manner that reduces flood hazards. As the storm drainage system is extended or modified, provide capacity to adequately convey the 10-year storm event.
Action EC-5.19	Develop and maintain a Storm Drainage Master Plan and work with other agencies to develop broader Watershed Management Plans to model the City’s hydrology.

General Plan Policies: Hydrology and Water Quality	
Action EC-5.20	Monitor information from regional, state, and federal agencies on water level rises in San Francisco Bay on an on-going basis. Use this information to determine if additional adaptive management actions are needed and implement those actions to address flooding hazards from increasing sea levels for existing or new development and infrastructure.
Stormwater	
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Action ER-8.10	Participate in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and take other necessary actions to formulate and meet regional water quality standards which are implemented through the National Pollution Discharge Elimination System (NPDES) permits and other measures.
Water	
Policy ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
Policy ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
Policy ER-10.2	In Consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.
Water Conservation and Quality	
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

General Plan Policies: Hydrology and Water Quality	
Policy MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
Policy MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
General Provision of Infrastructure	
Policy IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
Policy IN-1.2	Consistent with fiscal sustainability goals, provide and maintain adequate water, wastewater, and stormwater services to areas in the city that do not currently receive these City services upon funding and construction of the infrastructure necessary to provide them.
Water Supply, Sanitary Sewer and Storm Drainage	
Policy IN-3.4	<p>Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:</p> <ul style="list-style-type: none"> • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
Policy IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
Policy IN-3.8	In designing improvements to creeks and rivers, protect adjacent properties from flooding consistent with the best available information and standards from the Federal Emergency Management Agency (FEMA) and the California Department of Water Resources (DWR). Incorporate restoration of natural habitat into improvements where feasible.

General Plan Policies: Hydrology and Water Quality	
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Wastewater Treatment and Water Reclamation	
Action IN-4.8	Prepare, maintain and implement a Master Plan(s) for the ongoing capital improvement, maintenance, and operation of the wastewater treatment and water reclamation facilities.

4.9.3 Environmental Checklist and Discussion of Impacts

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

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
10. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Hydrology and Water Quality Conclusions

The DSAP FEIR concluded that with implementation of standard measures and implementation of General Plan policies and existing regulations, future development under the DSAP would not expose people or structures to a significant risk of loss, injury or death involving flooding. Impacts related to construction-related and long-term drainage or water quality and groundwater quality would also be less than significant.

4.9.3.1 Hydrology Impacts of the Project on the Environment

Storm Drainage
(Checklist Items 4, 5)

The 1.72 acre project site is covered with 28,130 square feet of impermeable surfaces, including a building and pavement. The majority of the site (46,875 square feet, or 62.5 percent) is currently pervious. Upon redevelopment, the site will have 55,270 square feet of impervious surface area (74 percent), and 19,735 square feet of pervious surface area (26 percent). The project would create and

replace over 10,000 square feet or more of impervious surfaces, and therefore is subject to the C.3 Provision of the Municipal Regional NPDES Permit and the City of San José's Post-Construction Urban Runoff Management Policy 6-29, which require regulated new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs).

While the project would increase the amount of impervious surface area on the site, and resulting amount of runoff, that runoff would be managed and treated in accordance with the Municipal Regional Stormwater NPDES Permit and City policies and would not exceed the capacity of the existing storm drain system. The project would create, add, or replace 10,000 square feet or more of impervious surfaces, and therefore is subject to the City of San José's Post-Construction Urban Runoff Management Policy 6-29, which requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). Stormwater runoff from the site would be collected via new storm drains which would be directed to bio retention basins/overflow drains and a storm drain media filter vault (which would be located in the northwest corner of the project site). The stormwater directed to the media filter would be treated then directed to the City's existing 15-inch storm drain on Park Avenue. Stormwater would also be treated by stormwater bio-treatment planters on-site (refer to Figure 3.2-5 for the stormwater control plan).

As noted above, the DSAP area is located within a sub-watershed that is greater than 65 percent impervious. Therefore, development under the DSAP, including the subject project site, is exempt from City of San José's Post-Construction Hydromodification Management Policy 8-14 implementing the HMP requirements in the Municipal Regional Stormwater NPDES Permit.

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

4.9.3.2 Water Quality Impacts of the Project on the Environment

Construction Impacts (Checklist Items 1, 2, 3, 6)

Construction activities would include building demolition, ground disturbance, and construction of new structures and pavement. Ground-disturbing activities such as grading and excavation could result in accelerated erosion by exposing soil to runoff. Erosion could adversely affect water quality through sedimentation of runoff. Construction would also involve the use of various hazardous substances such as fuel, lubricants, paving media, paints, and solvents. If improperly controlled, stormwater runoff from the construction site could transport contaminants to Guadalupe River, Los Gatos Creek, and ultimately San Francisco Bay, which could degrade water quality, endanger aquatic life, and/or result in violation of water quality standards.³²

Construction of the project's below-ground parking level may require dewatering of groundwater, which is known to occur at depths of less than 20 feet on the project site. Groundwater pumped from below the construction site and released into the storm drain system could contain sediment or other

³² Once construction is complete and all exposed surfaces are planted, erosion from development sites and the associated potential for sedimentation would be minimal.

contaminants such as toxics and petroleum hydrocarbons.³³ If not properly managed, dewatering activities could pollute surface water.

The project will be subject to the following standard measures:

- **NPDES Permit Requirements.** Prior to initiating grading activities, the project applicant will file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project's SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and construction activities. All measures shall be included in the project's SWPPP and printed on all construction documents, contracts, and project plans. Construction BMPs in the SWPPP may include, but are not limited to the following:
 - Restrict grading to the dry season or meet City requirements for grading during the rainy season.
 - Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
 - Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff with secure plastic sheeting or tarps.
 - Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
 - Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
 - Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

The SWPPP shall also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction (refer to Section 4.9.3.3 above).

When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the DTSC. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a Post-Construction Stormwater Management Plan is in place, as described in the SWPPP for the site.

³³ High sediment content in dewatering discharges is common because of the nature of the operation in which soil and water mixes in the turbulent flow of high volume pump intakes. Chemical pollutants are most commonly found in dewatering effluent in areas with a history of groundwater contamination (e.g. leaks to the subsurface from industrial sites).

- **Dewatering.** For future projects that involve dewatering activities, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.³⁴

With implementation of General Plan policies, existing regulations, and the standard measures listed above, future development of the project would not result in a significant construction-related impact on drainage or water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction Impacts

(Checklist Items 1, 2, 3, 6)

Although the proposed project, and the DSAP as a whole, would not substantially alter the drainage pattern of the area, the intensification of urban uses would increase generation of non-point source pollution typical of urban development. These pollutants would likely include trash (improperly disposed solid waste), pet waste, and vehicle-related byproducts such as oil, grease, fallout from exhaust, and heavy metals (such as zinc from tire wear and copper from brake pad wear). New landscaped areas could contribute additional sources of residual fertilizers, pesticides, and other chemical compounds. Contaminants could degrade the water quality of Los Gatos Creek, Guadalupe River, and the San Francisco Bay.

Although intensifying development may increase vehicle use and thus the pollutant load of runoff from roadways and parking lots in the short-term, the dense infill project near transit, and the DSAP as a whole, aims to reduce reliance on vehicle travel over time, supporting reductions in one of the primary sources of pollution from urban runoff.

The project is required to implement and maintain BMPs that facilitate the infiltration of water into the ground surface, reduce the rate and volume of runoff to the storm drain system, and minimize pollution in runoff, in accordance with the Municipal Regional Stormwater NPDES Permit and City policies. Under current NPDES requirements, development projects, such as the current project, that create, add, or replace 10,000 square feet or more of impervious surface area are required to control post-development stormwater runoff through LID site design, source control, and treatment control BMPs. Refer to Figure 3.2-5 for the stormwater control plan, which depicts the project's approach to implementing post-construction stormwater runoff controls consistent with City policies.

Development of the project site would not contribute to depletion of groundwater supplies or reduce the amount or quality of water available for public water supplies in that the project would not rely on pumped groundwater underlying the site, and the site is not located in a recharge area. In addition, regulations designed to control contaminants in stormwater runoff reduce the potential for

³⁴ This measure is identified in the Strategy 2000 EIR.

contamination of groundwater with compounds found on developed sites. The NPDES program and City Council Policy 6-29 limit the use of infiltration treatment measures for the purpose of groundwater protection, stating that infiltration devices must:

- be implemented at a level appropriate to protect groundwater quality;
- not cause or contribute to degradation of groundwater quality;
- be adequately maintained to maximize pollutant removal capabilities;
- maintain a vertical distance between the base of the infiltration device and seasonal high groundwater of at least 10 feet; and
- be located a minimum of 100 feet horizontally from any known water supply wells.

With implementation of existing regulations and General Plan policies, the project would not result in a significant impact to water quality, including groundwater supplies.

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

4.9.3.3 *Hydrological Impacts on the Project Site*

As previously discussed in Section 4.0, on December 17, 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are also discussed below.

Flooding and Inundation

(Checklist Items 7, 8, 10)

The project site is not located in a flood hazard zone identified by the FEMA, and therefore would not place housing or other structures within a 100-year hazard area. As noted above, the subject site, is not located near large water bodies such as the San Francisco Bay and is not subject to inundation by seiche, tsunami, or mudflow.

Dam Failure Hazard

(Checklist Item 9)

The DSAP area is located within a dam failure inundation zone for Lenihan Dam at Lexington Reservoir and Anderson Dam at Anderson Reservoir. Both dams were constructed in the 1950’s and are owned and operated by the SCVWD. The SCVWD has received preliminary findings of a seismic study of Anderson Dam that show the material at the base of the dam could liquefy in a 7.25 magnitude earthquake on the nearby Calaveras Fault. The SCVWD is currently studying what corrective measures are needed to ensure public safety and has imposed storage restrictions at Anderson Dam. The SCVWD is planning to complete design and construction of a seismic retrofit by the end of 2018. The operating restriction will remain in place until the project is completed.³⁵

³⁵ Santa Clara Valley Water District. “Anderson Dam and Reservoir”. 2011. Accessed July 21, 2011. <<http://www.valleywater.org/Services/AndersonDamAndReservoir.aspx>>.

4.9.4 Conclusion

With implementation of standard measures and implementation of General Plan policies and existing regulations, future development of the project site would not expose people or structures to a significant risk of loss, injury or death involving flooding. Impacts related to construction-related and long-term drainage or water quality and groundwater quality would also be less than significant.

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

4.10 LAND USE

4.10.1 Setting

4.10.1.1 *Existing Land Uses*

The site is mostly vacant with an unoccupied one-story office building located on the corner of Park Avenue and Sonoma Street. The site also consists of landscaping from former development including eight non-native trees and one native coast live oak tree, as well as concrete paved surfaces. The project site is in the Southern Zone and Park/San Carlos subarea of the DSAP. This subarea is primarily comprised of residential and commercial uses.

4.10.1.2 *Surrounding Land Uses*

The project site is bordered by Park Avenue to the north, Delmas Avenue to the east, Sonoma Street to the west, and a vacant parcel and commercial uses to the south. Adjacent commercial and residential development is comprised of one- to three-story structures. A three-story condominium development is to the north of the site on Park Avenue. A one-story automobile repair business is to the south (on Sonoma Street) and one to two-story commercial office buildings (on Park Avenue) are to the west of the project site. A vacant lot and vacant one-story building (on Delmas Avenue) and an automobile dealer (on West San Carlos Street) are located to the south of the site.

4.10.1.3 *General Plan and Zoning*

Envision San José 2040 General Plan

The project site is designated *Downtown* in the *Envision San José 2040 General Plan*. This designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, 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. Redevelopment should be at very high intensities, unless incompatibility with other major policies within the 2040 General Plan (such as Historic Preservation Policies) indicates otherwise.

Zoning Ordinance

The project site is zoned *Downtown Primary Commercial (DC)*. 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 José International Airport. There are no minimum setbacks required.

4.10.1.4 *Applicable Plans, Policies and Regulations*

Airport-related Plans and Regulations

The Mineta San José International Airport is owned and operated by the City of San José. It is regulated by various federal, state, and local laws, including the Code of Federal Aviation Regulations. As discussed in detail in Section 4.8 *Hazards and Hazardous Materials*, Part 77 of the Federal Aviation Regulations regulates obstructions to navigable airspace.

County of Santa Clara Airport Land Use Commission and Comprehensive Land Use Plan

The Santa Clara County Airport Land Use Commission (ALUC), under State of California mandate,³⁶ has adopted a Comprehensive Land Use Plan (CLUP) for the Mineta San José International Airport (San José Airport). The CLUP contains policies applicable to new development or redevelopment of existing land uses within the Airport Influence Area (AIA). These policies address compatibility between airports and future nearby land uses by focusing on noise, over-flight safety, and airspace protection concerns for the airport over a 20-year horizon. Noise contours indicate general areas of likely community response to noise generated by aircraft activity and serve as the basis for land use compatibility determinations. Airport safety zones are established to minimize the number of people exposed to potential aircraft accidents in the vicinity of an airport by imposing density and use limitations within these zones. The CLUP also establishes a Height Restriction Area, based on federal regulations.

The project site is located in the AIA for the Mineta San José International Airport.³⁷ All areas within the AIA could be subject to aircraft over-flights and are subject to CLUP policies. In accordance with the San José Airport CLUP Policy G-5 and General Plan Policy TR-14.4, dedication of an aviation easement to the City of San José shall be required by the applicant and acceptance of aircraft noise impacts by the City shall be required as a condition of approval on all projects, with the exception of reconstruction projects, located within an Airport Influence Area.³⁸ The easement would set forth maximum elevation limits or a “no build easement” in accordance with FAA and CLUP standards. As described in Section 4.3 *Noise*, the project site is not within the 65 CNEL (maximum allowable noise level considered compatible with residential uses) noise contour for the airport.

Santa Clara Valley Habitat Conservation Plan

The DSAP area is covered by the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). As described in Section 4.4 *Biological Resources*, the HCP/NCCP is a conservation program that has been developed to promote the recovery of endangered species

³⁶ California State Aeronautics Act, Public Utilities Code: Division 9, Part 1, Chapter 4, Article 3.5, Section 21670 et seq.

³⁷ Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan, Norman Y. Mineta San Jose International Airport*. 2010.

³⁸ As defined by San Jose Airport CLUP, a reconstruction project includes the rebuilding of a legally established structure located in any of the CLUP safety zones, to its original conditions (typically due to a fire, or earthquake damage or destruction).

while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The HCP/NCCP has been approved and the implementing agency established. The project site is located in an area designated as *Urban-Suburban* in the HCP/NCCP.

DSAP Design Guidelines

The DSAP contains Design Guidelines to assist the City with the review of future development and implementation of public improvement projects. The Design Guidelines are intended to facilitate development in a financially viable manner that is consistent with the long-term vision of the Plan area and achieves current City policies. The design guidelines may become the basis for the City of San José to establish regulations, implementation strategies, and/or subsequent planning documents such as detailed design standards.

The Design Guidelines are separated into three categories: 1) Built Form, 2) Open Space Network, and 3) Streetscape. The Built Form guidelines generally apply to private development sites (such as the project site). The Open Space and Streetscape guidelines are primarily directed at improvements to the public realm that would be implemented as part of future development or as public improvement projects.

The Built Form guidelines include standards and recommendations for site planning and building design, including maximum building heights based on location within the Plan area. According to the guidelines, new development should be oriented to the street, incorporate active ground floor uses, and provide direct connections for pedestrians and bicyclists through pathways that connect to the public street and open space networks. The built form guidelines and the Design Guidelines call for “sustainable site planning” through the integration of natural assets and green building practices (e.g., on-site stormwater collection systems).

Overall, the Design Guidelines are intended to create a transit-oriented, pedestrian/bicycle-friendly environment with a vibrant urban character in a manner that maximizes compatibility between new and existing uses. The Design Guidelines are discussed in Section 4.1, *Aesthetics*.

The guidelines describe the envisioned design of the Plan area at full build-out. The application of the guidelines should be flexible to reflect unique challenges, development opportunities, and market conditions.

The DSAP Design Guidelines are generally consistent with General Plan policies and actions intended to guide development in Downtown and Urban Villages.

General Plan Policies and Urban Villages

The 2040 General Plan identifies the DSAP area as a major location for growth, given that the DSAP area is at the convergence of three Growth Areas: Downtown, Midtown, and The Alameda Urban Village. The DSAP area is considered an Urban Village in the 2040 General Plan. The DSAP serves as the Urban Village Plan for the DSAP area.

The General Plan includes numerous policies and actions aimed at avoiding or mitigating an environmental effect, as listed in the applicable sections of this Initial Study. Relevant policies adopted for the purpose of avoiding or mitigating land use impacts are summarized in the following table.

General Plan Policies: Land Use	
Compatibility Policies	
Policy CD-4.9	For development subject to design review, the design of new or remodeled structures will be 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).
Community Health, Safety, and Wellness Policies	
Policy CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.
Urban Villages and Urban Design Policies	
Policy CD-7.1	Support intensive development and uses within Urban Villages and Corridors, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
Policy CD-7.6	Incorporate a full range of uses in each Urban Village Plan to address daily needs of residents, businesses, and visitors in the area. Consider retail, parks, school, libraries, day care, entertainment, plazas, public gathering space, private community gathering facilities, and other neighborhood-serving uses as part of the Urban Village planning process. Encourage multi-use spaces wherever possible to increase flexibility and responsiveness to community needs over time.
Aircraft Safety Policies	
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air 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-14.4	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.

4.10.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,11

DSAP FEIR - Land Use Conclusions

The DSAP FEIR concluded that development under the DSAP would not result in significant land use conflicts nor would it significantly impact established communities with the implementation of the DSAP Design Guidelines, General Plan policies, and zoning ordinance. The FEIR also concluded that the implementation of the DSAP would not conflict with the General Plan, HCP/NCCP, zoning ordinance or other applicable adopted plans and policies.

4.10.2.1 Consistency with General Plan, DSAP and Zoning Ordinance
(Checklist Items 1 and 2)

The project site is currently designated *Downtown* in the DSAP and General Plan and is zoned *DC – Downtown Primary Commercial*. Implementation of the proposed project would result in the redevelopment of an underutilized site with high-density, residential development that would place housing within proximity to transit and increase commercial space within the DSAP area. The project proposes ground floor commercial space to improve the pedestrian environment and walkability in the area. As designed, the building conforms to the design parameters outlined in the zoning code and design guidelines in the DSAP, including building heights and setbacks. The project is not immediately adjacent to residences, although there are residences across Park Avenue to the north.

The proposed 74 dwelling units per acre (DU/AC) density is less than the maximum 800 DU/AC for sites with the *Downtown* General Plan designation. The proposed floor-area-ratio (FAR) of 2.2 is

consistent with the density requirements of the *Downtown* designation, which state that the density of development on sites must not exceed an FAR of 30.

The proposed project is consistent with the development assumptions in the DSAP which assumed that the primary uses for the Park/San Carlos area would be residential. The maximum development assumed for the Southern Zone of the DSAP (in which the site is located) was 805,000 square feet of office/research and development/light industrial space, 203,000 square feet of retail restaurant space, 2,365 residential units and 650 hotel rooms. The 122 residential units and 1,000 square feet of retail/restaurant proposed by the project are consistent with the DSAP assumptions for the Southern Zone.

The proposed buildings (at 61 feet above ground at the top of parapet) would not exceed the DSAP's building height limit of 110 feet above ground for the project site and would be well within the FAA Part 77 Surface height restriction for the site (at 120 feet above ground) which is also the height limit for the *DC – Downtown Primary Commercial* zoning. The *DC – Downtown Primary Commercial* zoning also requires no minimum setbacks from adjacent properties. For these reasons, the project site is consistent with the General Plan and DSAP land use designation and zoning.

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

4.10.2.2 *Land Use Compatibility*

Land use conflicts can arise from two basic causes: 1) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of these circumstances are aspects of land use compatibility; or 2) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. The discussion below distinguishes between potential impacts from the proposed project upon people and the physical environment, and potential impacts from the project's surroundings upon the project itself.

Impacts from the Proposed Project (Checklist Items 1 and 2)

Consistent with the DSAP FEIR, the proposed project would change the character of the project site by converting vacant land to a four and five story, 123unit residential development (61 feet at the top of the parapet) with 1,000 square feet of retail/restaurant space on a 1.72-acre site. Residential development of the site was evaluated in the DSAP FEIR. The proposed development would not substantially obstruct scenic views from nearby Gateways, Urban Throughways, or scenic corridors due to the existing urban development which currently blocks the views of the City's scenic vistas. The proposed development is not immediately adjacent to residential development, and with the implementation of General Plan lighting policies, would not result in visual intrusion to nearby residences from the proposed development's lighting (refer to Section 4.1, *Aesthetics*)

The proposed project would be compatible with surrounding land uses to the north (condominium development on Park Avenue) and east (i.e., the Downtown area east of SR 87). The proposed residential development would result in increased ambient noise levels in the project area; however,

as discussed in Section 4.11, *Noise*, the introduced noise from vehicles and ordinary residential activities would not be at levels considered significant. Although the operations of proposed project alone would not result in significant air quality impacts, the project would contribute to significant local and regional air quality impacts (refer to Section 4.3, *Air Quality*) disclosed in the DSAP FEIR. Construction activities would result in temporary air quality and noise impacts to the surrounding residential developments. Sections 4.3 *Air Quality* and 4.11, *Noise*, of this Initial Study, discuss these impacts in detail and provide measures to reduce these impacts to a less than significant level.

In accordance with the DSAP FEIR, the design of the new buildings would be complementary to the surrounding neighborhood (e.g., use of approved building materials, and orientation of buildings to the street). With the implementation of DSAP Design Guidelines, General Plan policies, zoning ordinance and other applicable regulations, the project would not result in significant land use conflicts.

Underutilized properties disrupt the landscape of their respective neighborhoods. Since the proposed project has similar land uses to the condominiums to the north and would redevelop an underutilized site (vacant building) to enhance the connectivity of the neighborhood, the project would not physically divide an established neighborhood.

Shade and Shadow

The project is not immediately adjacent to any public open spaces or riparian corridors. The nearest public open space area is Guadalupe River Park, Discovery Meadow (located 700 feet east of the site) on the corner of West San Carlos Street and Woz Way. The DSAP FEIR disclosed that new buildings adjacent to Los Gatos Creek in the Southern Zone would be likely to cast shadows on the corridor for longer durations throughout the day and year, based on their proximity and orientation to the creek relative to sunlight. The project site is approximately 600 feet east of Los Gatos Creek riparian corridor. Given the distance of the proposed development from public open spaces and riparian corridors, the proposed project would not have significant shade and shadow impacts on these areas.

Impacts to the Proposed Project

(Checklist Item 2)

The project would not place new residential development adjacent to an incompatible land use such as a heavy industrial zone. Future residents of the project site would be exposed to noise from vehicles along the SR 87. With incorporation of measures listed in Section 4.11 *Noise*, traffic noise impacts to future residents of the project site would be reduced to a less than significant level. Compliance with all applicable City policies, actions and ordinances, and adopted design guidelines would ensure the project would not be subject to any greater impact than previously identified in the DSAP FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.2.3 *Other Land Use Plans*

Habitat Conservation Plan
(Checklist Item 3)

As stated in DSAP FEIR and Section 4.4, *Biological Resources*, the City of San José has adopted the HCP/NCCP and approved an ordinance³⁹ implementing the measures and conditions set forth in the HCP/NCCP. The Habitat Plan or HCP/NCCP, as adopted in 2013, provides a mechanism for mitigating the identified nitrogen deposition impacts. The Habitat Plan requires projects greater than two acres to pay the nitrogen deposition fee. The project site is less than two acres and, therefore, is not a covered project under the Habitat Plan; however, the project will pay nitrogen deposition fees to reduce its contribution to cumulative nitrogen deposition impacts to a less than cumulatively considerable level. As described further in *Section 4.4 Biological Resources*, the proposed project would not conflict with the HCP/NCCP.

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

4.10.3 Conclusion

The proposed project is consistent with adopted plans and policies for the project site and would not physically divide an established community. The project would not conflict with the Habitat Plan. Implementation of the project, therefore, would not result in new or more significant land use impacts than disclosed in the certified DSAP FEIR.

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

³⁹ Chapter 18.40 of the City of San José Municipal Code.

4.11 MINERAL RESOURCES

4.11.1 Setting

Mineral resources found and extracted in Santa Clara County include construction aggregate deposits such as sand, gravel, and crushed stone. The only area in the City of San José that is designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) as containing mineral deposits which are of regional significance is Communications Hill, which is located approximately 2.5 southeast of the project site.

4.11.2 Environmental Checklist and Discussion of Impacts

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

DSAP FEIR - Mineral Resources Conclusions

The DSAP FEIR does not disclose any mineral resource impacts which would result from future development under DSAP. Implementation of the DSAP would not result in the loss of availability of a known mineral resource.

4.11.2.2 *Mineral Resources Impacts*

The project site does not contain any known state or locally important mineral resources and is 2.5 miles from the Communications Hill area. Therefore, implementation of the project would not impact mineral resources beyond what was described in the DSAP FEIR.

[Same Impact as Approved Project (No Impact)]

4.11.3 Conclusion

Given the project site’s distance from known mineral resources within the City, implementation of the project would result in no impact to mineral resources.

[Same Impact as Approved Project (No Impact)]

4.12 NOISE

This discussion is based in part on a Noise and Vibration Assessment completed by *Charles M. Salter Associates, Inc.* in April 2014. A copy of this report is provided in Appendix F.

4.12.1 Setting

4.12.1.1 *Overview*

Fundamentals of Noise

Noise may be defined as unwanted sound. Noise is usually objectionable because it is disturbing or annoying. The objectionable nature of sound can be caused by its pitch or its loudness. A decibel (dB) is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Noise is typically expressed using one of several noise averaging methods, including: L_{eq} , L_{max} , DNL, and CNEL. L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time. The most common averaging period is hourly but L_{eq} can describe any series of noise events in arbitrary duration. L_{max} is the maximum A-weighted noise level during a measurement period. DNL and CNEL are described below.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most household noise also decreases at night, making exterior noises more noticeable. Furthermore, most people sleep at night and are very sensitive to noise intrusion. To account for human sensitivity to nighttime noise levels, a descriptor, DNL (day/night average sound level), was developed. The DNL divides the 24-hour day into the daytime of 7:00 AM to 10:00 PM and the nighttime of 10:00 PM to 7:00 AM. The nighttime noise level is weighted to 10 dB higher than the daytime noise level. The Community Noise Equivalent Level (CNEL) is another 24-hour average which includes both an evening and nighttime weighting.

Fundamentals of Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration is commonly measured in vibration decibels (VdB) or peak particle velocity (PPV). The minimum threshold for human perception is 65 VdB. Ground-borne vibration causes the movement of building floor, rattling of windows, and shaking of items on shelves or hanging on walls. Excessive vibration has the potential to annoy people and cause structural damage. Land uses that tend to have higher sensitivity to vibration include historic buildings, residences, certain institutional uses, and high tech businesses that involve sensitive operations. The rumbling sound caused by vibration of room surfaces is referred to as ground-borne vibration.

4.12.1.2 Existing Noise Conditions

The existing noise environment at the project site results primarily from vehicular traffic on surrounding streets and on the elevated Guadalupe Freeway (State Route 87) located east of the site, aircraft approaching or departing from the Norman Y. Mineta San José International Airport, and operations of the Valley Transportation Authority (VTA) light rail transit rail corridor located across Delmas Avenue, east of the site.

A noise monitoring survey consisting of four long-term noise measurements was conducted between February 7, 2014 and February 18, 2014 to quantify the existing noise environment at the project site. The locations of the noise measurements are shown on Figure 4.12-1 and the measured time-averaged DNL noise levels are shown in Table 4.12-1. The recurring maximum instantaneous single-event noise level was also calculated.⁴⁰ The 2014 measurements were also compared to previous measurements taken at the site in 2006; the measured DNL were consistent with the previously measured noise levels.

Table 4.12-1: On-Site Measured Noise Levels

Noise Monitor Location	Location	Measured DNL	Recurring Maximum Instantaneous Noise Level L_{max}
N1	Approximately 20-feet south of Park Avenue and 180-feet west of Delmas Avenue, 12-feet above grade	72dB	88 dB
N2	Approximately 25-feet south of Delmas Avenue and 210-feet south of Park Avenue, 12-feet above grade	72 dB	89 dB
N3	Approximately 40-feet north of West San Carlos Street and 290-feet west of Delmas Avenue, 12-feet above grade	74 dB	88 dB
N4	Approximately 15-feet east of Sonoma Street and 215-feet south of Park Avenue, 12-feet above grade	68 dB	89 dB

The measured noise levels were fairly consistent across the site, ranging from 68-74 dB DNL, with the Sonoma Street frontage being quieter than the Park and Delmas frontages. The recurring maximum noise levels were 88-89 dB across the site. Maximum noise levels from aircraft were typically between 80-84 dB.

The project site is located within the Norman Y. Mineta San José International Airport (SJIA) airport influence area. Based on the SJIA Comprehensive Land Use Plan (CLUP), the project site is located between the 60 and 65 dB CNEL contours. According to the City's current and projected noise contours for San José International Airport, the project site is exposed to aircraft noise levels of less than 65 dB CNEL, the minimum level at which aircraft noise would be considered a significant impact under State and federal guidelines.

⁴⁰ To calculate the recurring maximum instantaneous noise level, the logarithmic average of the top 30 percent of single-event noise levels was used, considering all pass-bys (e.g., cars, sirens, planes, light rail) above 80 dB.



NOISE AND VIBRATION MEASUREMENT LOCATIONS

FIGURE 4.12-1

4.12.1.3 Existing Vibration Levels

The project site is subject to vibration from the VTA light rail transit corridor that runs parallel to and immediately across Delmas Avenue, east of the site. Vibration measurements were completed at the site on February 7 and March 4, 2014, at two setback distances from the VTA rail centerline. Location V1 was located approximately 75 feet from the centerline of the tracks and Location V2 was located approximately 150 feet from the centerline of the tracks (refer to Figure 4.12-1). Vibration levels were measured during the morning commute rush hour and during an evening rush hour on a San José Sharks game night. The vibration levels of the light rail pass-bys were measured at 55-62 VdB at location V1, 75 feet from the track centerline, and 48-60 VdB at location V2, 150 feet from the track centerline.

4.12.1.4 Sensitive Receptors

The nearest, existing noise sensitive land use is the multi-family residential development located across Park Avenue, approximately 70 feet north of the site.

4.12.1.5 Applicable Plans, Policies, and Regulations

Federal Transit Administration

The Federal Transit Administration (FTA) has established acceptability criteria for ground-borne vibration from rail transit and railroads. For residences and buildings where people normally sleep, maximum acceptable levels of ground-borne vibration are 72 VdB and 80 VdB for frequent and infrequent events, respectively. Frequent events are defined as more than 70 events of the same source per day, while infrequent events occur fewer than 70 times per day.

2014 State Building Code, Title 24, Part 2


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


Envision San José 2040 General Plan


The General Plan includes noise compatibility guidelines for various land uses. These guidelines are provided in Table 4.12-2 below.

Table 4.12-2: General Plan Land Use Compatibility Guidelines						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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

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

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

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

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

General Plan Policies: Noise and Vibration	
Policy EC-1.1	<p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

General Plan Policies: Noise and Vibration	
	<p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 4.12-2 in this Initial Study). Residential uses are considered “normally acceptable” with exterior noise exposures of up to 60 dBA DNL and “conditionally compatible” where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.
Policy EC-1.3	<p>Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to uses through noise standards in the City’s Municipal Code.</p>
Policy EC-1.6	<p>Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.</p>
Policy EC-1.7	<p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. <p>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p>

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.⁴¹

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval (refer to Table 4.12-3. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 AM to 7:00 PM, Monday through Friday.

Table 4.12-3: City of San José Zoning Ordinance Noise Standards	
Land Use Types	Maximum Noise Level in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used or zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

4.12.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18

⁴¹ The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Noise Conclusions

The DSAP FEIR concluded that development under the DSAP would not be exposed to interior and exterior noise levels in excess of City standards. Additionally, development under the DSAP would not expose people residing or working in the DSAP area to excessive noise levels associated with aircraft operations and would not conflict with Comprehensive Land Use Plan for the Mineta San José International Airport.

Development under the DSAP would, however, result in a significant unavoidable impact at existing noise-sensitive land uses adjacent to segments of Julian Street (Stockton Avenue to Guadalupe River Trail), Park Avenue (from Hedding Street to I-880) which are located outside of the DSAP, and San Carlos Street (Almaden Boulevard to Market Street) due to substantial increases in traffic noise. Residences located along the Julian Street segment are designated for redevelopment with industrial/commercial uses under the DSAP. Although these residences are planned for replacement, they could remain under full or partial build-out of the DSAP and be exposed to traffic noise increases. The DSAP does not propose to implement any noise reduction measures (e.g., replacement of roadway surfaces with pavement that produces reduced noise, installation of new or larger noise barriers to shield sensitive outdoor use areas) along these affected roadway segments.

Based on the DSAP FEIR, since the existing ambient traffic noise levels at the hotels located along San Carlos Street, the traffic noise level from buildout of the DSAP would not likely be audible. In the future, noise reduction measures may be proposed for residences along Park Avenue segment as a part of a capital improvement program.

The DSAP FEIR compared the existing traffic conditions assumed in *The Strategy 2000: Downtown Strategy for Development* (Strategy 2000) FEIR to traffic noise levels generated by the DSAP. The Strategy 2000 was approved by City Council in 2005 for the purpose providing a long-range conceptual program for revitalizing Downtown through higher density infill development. Based on the DSAP FEIR analysis, there would be no substantial differences in traffic or noise levels between DSAP build-out and Strategy 2000 build-out conditions. The DSAP FEIR concluded that DSAP buildout would not result in a significant contribution to traffic noise when considered in combination in the Downtown and surrounding area.

4.12.2.1 Noise Thresholds

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site (refer to *Section 4.12.1.5*), a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan policy EC-1.1).

In addition, the City of San José would consider the project a significant impact if the noise level increase resulting from the project (e.g., noise from project operations or project-generated traffic) is three (3) dBA DNL or greater at noise-sensitive receptors, with an ambient noise level of 60 dBA DNL or greater. Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of five (5) dBA DNL or greater would be considered significant (General Plan policy EC-1.2).

Temporary, construction noise impacts from the project would be significant if the project is located within 500 feet of residential uses (or 200 feet of commercial or office uses) and would involve substantial noise generating activities (such as demolition, grading, excavation, pile driving, etc.) for more than one year (General Plan Policy EC-1.7); and if hourly average noise levels exceed 60 dBA L_{eq} and are at least five (5) dBA above the ambient noise environment at nearby residential uses.

4.12.2.2 *Noise Impacts from the Project*

Project Generated Traffic Noise (Checklist Items 1 and 3)

The project site is located near noise-sensitive receptors to the north of the site. Existing traffic volumes on nearby roadways would have to double in order for the project to result in a perceptible three dBA DNL increase above existing ambient noise conditions at these existing residences. The proposed project is relatively small and project-generated traffic, by itself, would not result in significant traffic noise increases.

Traffic from the proposed project, in combination with future redevelopment in the DSAP and downtown area is projected to result in a significant unavoidable impact at existing noise-sensitive uses adjacent to segments of Julian Street, Park Avenue, and San Carlos Street, due to substantial increases in traffic noise. This is the same impact as identified in the certified DSAP FEIR.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

Operational Noise (Checklist Items 1 and 3)

The proposed project would include various mechanical equipment necessary for the operation of the building, such as air conditioners, exhaust fans, elevator equipment, and air handling equipment for the underground parking level. In addition, truck deliveries for the proposed ground floor commercial/retail uses would generate noise. Due to the proximity of existing residential uses north of the project site, operational noise (i.e., operation of mechanical equipment and truck deliveries) from the proposed project could exceed the City's General Plan noise standard of 55 dBA DNL at residential property lines.

Impact NOI-1: Mechanical equipment and truck deliveries associated with the project could generate noise in excess of the City's General Plan noise standard of 55 dBA DNL at residential property lines. **(Significant Impact)**

Mitigation Measures: Consistent with the certified DSAP Final EIR and the General Plan Policy EC-1.3, the project proposes to implement the following mitigation measures to ensure that project operational noise does not exceed 55 dBA DNL at nearby residential property lines.

MM NOI-1.1: A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal at the property line of adjacent noise-sensitive uses. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at nearby noise-sensitive locations.

MM NOI-1.2: Ensure that noise generating activities such as maintenance activities and loading and unloading activities are limited to the hours of 7:00 AM to 9:00 PM. This hourly operation restriction does not apply to the normal business operations of the

commercial use, which shall abide by the Title 20 zoning district standards applicable to the site.

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

Construction-Related Noise

(Checklist Items 1 and 2)

Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, the distance between construction noise sources and noise sensitive receptors, and shielding. Construction activities for individual projects are typically carried out in stages. During each stage of construction, there would be a different mix of equipment operating.

The construction of the project would generate noise levels that would exceed ambient noise levels at noise sensitive receptors in the vicinity of the project site (including residences north of the project site on Park Avenue) and is anticipated to take place over an approximate 21-month period. Construction of the project would involve site improvements such as the establishment of utilities, removal of existing pavement, excavation to create the underground parking garage and to lay foundations, building erection, paving, and landscaping. The hauling of excavated material and construction materials would generate truck trips on local roadways.

Construction noise levels vary by stage and vary within stages, based on the amount and location of equipment in operation. The highest noise levels would be generated during grading, excavation, and foundation construction, which are anticipated to take place over a period of approximately five months. Jackhammers typically generate maximum noise levels of 85 dBA at a distance of 50 feet. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet.

During construction, noise levels would be elevated at adjacent businesses and noise sensitive uses by 10 to 20 dBA L_{eq} during typical busy construction periods. Businesses and sensitive uses would also be intermittently exposed to high levels of noise (75 to 85 dBA L_{eq}) throughout the construction period. Project construction activities, therefore, would exceed 60 dBA L_{eq} and increase ambient noise levels at nearby residences by at least five (5) dBA. While the construction of the entire project is estimated to take 21 months, the highest noise levels generated (i.e., those during grading, excavation, and foundation construction) are anticipated to occur for only approximately five months.

Residences and businesses in the vicinity of the site would be intermittently exposed to high noise levels during project construction. Incorporation of standard noise control measures would reduce construction noise to a less than significant impact.

Standard Permit Conditions: Consistent with the certified DSAP Final EIR, Envision San José 2040 General Plan Final EIR, General Plan policies (specifically Policy EC-1.7), and Municipal Code, the project proposes to implement the following standard measure to reduce construction-related noise impacts to a less than significant level:

- The project’s construction would generate noise levels exceeding the City’s acceptable noise standard beyond one construction season, therefore the project will be required to prepare a “construction noise logistics plan”, in accordance with GP Policy EC-1.7.42
- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The unnecessary idling of internal combustion engines shall be prohibited.
- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet).
- The surrounding neighborhood shall be notified early and frequently of the construction activities.
- A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

Adherence to the Municipal Code requirements would minimize impacts to neighboring properties from temporary increases in ambient noise levels resulting from future construction activities. With implementation of GP Policy EC-1.7 and Municipal Code requirements, the proposed project would not result in a significant short-term noise impact. This conclusion is consistent with the analysis in the DSAP FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁴² A construction noise logistics plan is required for large projects, while a “construction noise mitigation plan” is prepared when an applicant proposes construction hours outside of the Municipal Code limits.

Construction-Related Vibration

(Checklist Item 1 and 2)

Construction activities, such as the removal of existing pavement, site preparation work, excavation of below grade parking, foundation work, and new building erection, could generate excessive vibration levels at nearby sensitive land uses. The project would not require the use of pile driving or other construction equipment that would result in significant vibration impacts. Due to the size of the project and anticipated construction schedule, the project would not result in significant construction-related groundborne vibration impacts.

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

4.12.2.3 *Noise Impacts to the Project*

Exterior and Interior Noise Impacts

(Checklist Item 1)

As previously discussed in Section 4.0, on December 17, 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. General Plan polices under Goal EC-1(EC-1.1-1.7) requires, however, that existing ambient noise levels be analyzed for new residences, office buildings, business commercial, or professional offices and that noise attenuation be incorporated into the project in order to bring interior and exterior noise levels down to acceptable levels. The analysis of noise exposure for future project residents discloses information on the project’s compliance with General Plan polices.

Exterior Noise Impacts

The existing and future projected noise environment at the project site exceeds the City’s exterior noise goal of 60 dBA DNL for residential uses as a result of transportation noise sources in the project area (i.e., local traffic, VTA light rail, and aircraft). Along the street frontages, the project would be subject to noise levels of 69-75 dB DNL.⁴³ The project’s estimated noise level range is less than a three (3) dba DNL increase when compared to existing conditions.

At the project’s central courtyard open space, the buildings would shield the area from roadway noise and the noise levels are expected to be below 60 dB DNL. Therefore, the project would meet the General Plan noise level goal for common outdoor recreation areas and no mitigation is required.

⁴³ One (1) decibel was added to the existing measured noise levels for the future projected noise levels, to account for future traffic increases on nearby roadways.

Interior Noise Impacts

Where exterior day-night average noise levels exceed 65-70 dBA DNL, such as at the proposed residences, forced-air mechanical ventilation systems and sound-rated construction would be required to meet the City's interior noise goal of 45 dBA DNL. The building design and treatments identified in MM NOI-1.1 below would lower the interior DNL below 45 dBA DNL, as well as reduce the recurring maximum instantaneous noise levels (i.e., truck pass-bys, aircraft flyovers) to 50 dBA in bedrooms and 55 dBA in other habitable rooms.

The commercial space proposed at the corner of Park and Delmas Avenues would be subject to future noise levels of 74 dB Leq. Noise attenuation would be needed to ensure acceptable interior noise levels.

Future residential and commercial uses on the project site would be exposed to exterior and interior noise levels greater than the City's noise goals of 60 dBA DNL and 45 dBA DNL, respectively, as well as recurring maximum instantaneous noise levels greater than 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other habitable rooms.

Standard Permit Condition: Consistent with the DSAP Final EIR and in accordance with the General Plan, the project proposes the following design measures, identified in this permit condition, to reduce interior noise levels to 45 dBA DNL or lower, as well as reoccurring maximum instantaneous noise levels to 50 dBA L_{max} or lower in bedrooms and 55 dBA L_{max} or lower in other habitable rooms:

- Building design and treatments (STC ratings and exterior wall design) as detailed in the Noise Study prepared for the project (*Charles Salter Assoc., Inc.*, April 2014), as amended, will be incorporated into the final project plans to ensure interior noise levels would be reduced to 45 dBA DNL or lower and to 50 dBA L_{max} or lower in bedrooms and 55 dBA L_{max} or lower in other habitable rooms for recurring maximum instantaneous noise levels.. A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans to calculate expected interior and exterior noise levels and ensure compliance with City policies. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all residential units so that windows could be kept closed at the occupant's discretion to control noise.

Vibration Impacts (Checklist Item 2)

The project would be subject to ground-borne vibration from VTA light rail passbys on the tracks located across Delmas Avenue from the site. The project would be subject to maximum vibration levels of 55-62 VdB along the Delmas Avenue frontage, approximately 75 feet from the track centerline. The VTA schedule for the Winchester-Mountain View line, which uses the subject tracks, shows that the light rail passes the site more than 70 times during the day, meaning that it is subject to the FTA frequent event criterion of 72 VdB. All of the measured vibration levels were below the criterion; therefore, the project would be subject to less than significant vibration impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Noise and Land Use Compatibility (Aircraft)
(Checklist Questions 5 and 6)

Mineta San José International Airport is a public-use airport located approximately two miles northwest of the project site. Based on the SJIA Comprehensive Land Use Plan (CLUP), the project site is located between the 60 and 65 dB CNEL contours. According to the City's current and projected noise contours for San José International Airport, the project site is exposed to aircraft noise levels of less than 65 dB CNEL, the minimum level at which aircraft noise would be considered a significant impact under state and federal guidelines. Exterior and interior noise levels resulting from aircraft would be compatible with the proposed project. In accordance with the DSAP FEIR, higher density residential development,⁴⁴ such as the proposed project, is allowed in the Park/San Carlos subarea where airport noise is 60 to 65 dbA CNEL. Implementation of the permit condition above would ensure that the project meets the City's interior noise standards.

The site is not within proximity of a private airstrip. Therefore, the project site would not be subject to aircraft noise from airstrips.

4.12.3 Conclusion

Implementation of the proposed mitigation measures, consistent with the certified DSAP Final EIR, General Plan policies, and Municipal Code, would reduce exterior and interior noise levels impacts to existing sensitive land uses and future residents on the project site to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation)]**

The proposed project would not expose people residing and working in the project area to excessive aircraft noise levels. With the implementation of the above standard measures to reduce construction noise would reduce the temporary impacts of ground-borne construction noise on nearby sensitive receptors to a less than significant level.

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

Traffic from the proposed project, in combination with future redevelopment in the DSAP and downtown area is projected to result in a significant unavoidable impact at existing noise-sensitive uses adjacent to segments of Julian Street, Park Avenue, and San Carlos Street, due to substantial increases in traffic noise. This is the same impact as identified in the certified DSAP FEIR.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

⁴⁴ High density residential development is 25 dwelling units per acre (or greater).

4.13 POPULATION AND HOUSING

4.13.1 Setting

The City of San José population was estimated to be approximately 1,016,480 with a total of 327,650 housing units in January 2015.⁴⁵ The average number of persons per household in San José was estimated at 3.2.⁴⁶ The City has approximately 415,000 jobs and 468,100 employed residents.⁴⁷ Based on the City’s General Plan, the projected population in 2035 would be 1.3 million persons occupying 429,350 households. Within the DSAP area, there are approximately 1,430 residents and 1,680 employees.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. By 2035, San José could have 1.3 jobs per employed resident, which is a substantial change beyond the existing 0.8 to 1 ratio.

San José currently has a higher number of employed residents than jobs but this trend is projected to reverse with full build-out under the current General Plan.

4.13.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:						
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

⁴⁵ California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2015 with 2010 Census Benchmark*. Available at: <<http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>>. Accessed May 18, 2015.

⁴⁶ California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2015 with 2010 Census Benchmark*. Available at: <<http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>>. Accessed May 18, 2015.

⁴⁷ Association of Bay Area Governments. *Plan Bay Area Projections 2013*. December 2013.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR - Population and Housing Conclusions

The DSAP FEIR disclosed that future development under the DSAP would not induce substantial population growth in San José nor displace substantial amounts of existing housing or people. Implementation of the DSAP would not result in significant population and housing impacts. Development under the DSAP would, however, make a substantial contribution to the significant unavoidable impact related to the City’s jobs/housing imbalance (since development under the DSAP would contribute to the increase of jobs over residential units).

4.13.2.1 Impacts to Population and Housing

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Population Growth
(Checklist Questions 1)

The proposed project would develop 123 attached residential units and 1,000 square feet of retail space. The project is not expected to attract substantial numbers of new workers (or induce substantial population growth) to San José or the region, given the project would generate less than 10 employees.

Assuming the number of residents per unit would be 3.2, the proposed project would house 394 new residents. The proposed project’s 123 residential units is a part of the 2,588 residential units allowed under full buildout of the DSAP. The Park/San Carlos subarea (in the project site is located) within the DSAP area was proposed for residential uses in the DSAP FEIR and, therefore, the proposed project would not generate a demand for housing at a rate substantially greater than previously envisioned in the DSAP FEIR.

The small number of employees (less than 10) generated by the project would not result in unplanned job growth nor result in a significant impact on the jobs/housing balance or housing demand.

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

Population Growth and People/Housing Displacement

(Checklist Question 2 and 3)

The project site contains an existing office building and no residences occur on the project site. Demolition of the existing office building would not displace a substantial number of employees. For these reasons, the proposed project would not displace a substantial number of people or necessitate the construction of housing elsewhere.

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

4.13.3 Conclusion

The proposed project would not induce substantial population growth and would not have any new or more significant impacts to population growth than discussed in the DSAP FEIR.

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

The proposed project would not displace substantial numbers of people or housing necessitating the construction of replacement housing elsewhere.

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

4.14 PUBLIC SERVICES

4.14.1 Setting

The DSAP FEIR identifies existing public facilities and services in the Diridon Area, and evaluates the impacts of planned future development on the physical infrastructure and the availability of capacity.

The nearest libraries to the project site are the Dr. Martin Luther King, Jr. Main Library and the Biblioteca Latinoamericana (921 South First Street), which was expanded and reopened in 1999.

The project site is directly across the street from the Delmas Dog Park and the Guadalupe River Park and Gardens is located east of the project, on the east side of State Route 87.

4.14.1.1 *Fire Protection*

Fire protection services in San José are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents). The closest fire station to the project site is Station Number 30, 454 Auzerais Avenue approximately 900 feet south of the project site. The travel time by vehicle from this fire station to the project site would be approximately four minutes.

4.14.1.2 *Police Protection*

Police protection services in San José are provided by the City of San José Police Department (SJPD). The SJPD employs approximately 1,050 sworn officers. Patrolling officers are dispatched via police headquarters, located at 201 West Mission Street. The SJPD also has three community policing centers, which are located in Alviso, at Westfield Mall, and on Williams Road. All three centers have been closed due to staffing constraints.

In addition, security for VTA bus and light rail facilities is provided by the Santa Clara County Sheriff's Office who also subcontracts some security services through VTA's Protective Services, a private security contractor.

4.14.1.3 *Schools*

The DSAP area is served by the San José Unified School District (SJUSD), which consists of 27 elementary, six middle, and nine high schools. The nearest elementary school is Gardner at 502 Illinois Avenue. The nearest middle school is Herbert Hoover at 1635 Park Avenue. The nearest high school is Abraham Lincoln Senior High School at 555 Dana Avenue. All three schools are in the San José Unified School District. The EIR found that all of the schools still were operating within their capacities. According to the student generation factors used by SJUSD, multi-family residential development generates 0.238 K-12 students per dwelling unit.

4.14.1.4 Applicable Plans, Policies and Regulations**Parkland Dedication Ordinance and the Park Impact Ordinance**

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

Envision San José 2040 General Plan

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

General Plan Policies: Public Facilities and Services	
Law Enforcement and Fire Protection	
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy ES-3.20	Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.
Parks, Trails, Open Space, and Recreation	
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.

General Plan Policies: Public Facilities and Services	
Policy PR-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
Policy PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation’s Urban Environmental Accords, as adopted by the City for recreation open space.

4.14.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
a) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e) Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Public Services Conclusions

While implementation of the DSAP would incrementally increase the demand for public services, the DSAP FEIR concludes that compliance with General Plan and applicable regulations related to reducing impacts on police and fire services, parks and recreation, schools, and libraries would result in a less than significant impact on public services.

4.14.2.1 *Public Services Impacts*

Unlike utility services, public services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resources base for delivery of the services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery can be provided by a city, county, service, or other special district. Usually, new development will create an incremental increase in the demand for these services. The amount of the demand will vary widely, depending on both the nature of the development (residential vs. industrial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. family housing).

The impact of a particular project on public services and facilities is generally a fiscal impact. By increasing the demand for a type of service, a project could cause an eventual increase in the cost of providing the service (more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.). CEQA requires analysis of fiscal impacts to the extent that increased demand triggers the need for a new facility (such as a school or fire station), since the new facility would have physical effects on the environment.

Police and Fire Services (Checklist Items 1a and 1b)

The DSAP FEIR found proposed development, including the subject Park and Delmas Residential project, would contribute to increased demand for fire protection services in San José, but planned growth is not anticipated to result in the need for construction of fire stations in excess of those currently planned. Implementation of General Plan policies would help ensure that the SJFD meets and maintains the City's response time objectives over the long-term. This conclusion is consistent with the analysis in the General Plan FEIR.

Development under the DSAP, including the subject Park and Delmas Residential project, would contribute to increased demand for police protection services in the city. At the time development is proposed, the City will engage public safety personnel and evaluate additional staffing and equipment needs to serve the project area. However, it is not anticipated there will be a need to expand or construct new facilities to serve the current project and DSAP growth as a whole.

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

Libraries (Checklist Item 1e)

Based on the City's 2010 population of 1,023,083, the City currently has approximately 0.8 square feet of library space per capita. For the anticipated population under the 2040 General Plan, existing and planned facilities would provide approximately 0.68 square feet of library space, which would meet the service level objective of providing at least 0.59 square feet of library space per capita. Therefore, the DSAP FEIR concluded that planned growth would not result in the need for new or expanded library facilities in order to maintain acceptable service level objectives. In the event additional facilities are determined to be necessary, it is assumed that implementation of General

Plan policies would reduce the physical impacts from development of library facilities to a less than significant level.

Future residential development under the DSAP, including the subject Park and Delmas Residential project, would contribute to citywide demand for library services. Given that the existing and planned library facilities would adequately serve planned growth in the city, the proposed project would not result in a new or more significant impact. This conclusion is consistent with the analysis in the DSAP FEIR. **[Same Impact as Approved Project] (Less than Significant Impact)**

Schools

(Checklist Item 1c)

The proposed residential project would generate approximately 29 students for the local public school system. The DSAP FEIR found that although future residential development would contribute to increased demand for school facilities in the SJUSD, the future development, including the Park and Delmas Mixed-use Residential project, would not result in a new or more significant impact than identified in the General Plan FEIR. Pursuant to Sections 65995 to 65998 of the California Government Code and City of requirements, developers of new residential uses would be required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the development. The SJUSD would be responsible for implementing specific mitigation methods, which may include the expansion of existing facilities, construction of new schools, alterations to attendance boundaries, and/or modifications of class schedules.

Parks and Recreational Facilities

(Checklist Item 1d)

In accordance with GP Policy PR-1.9, the City's Residential Design Guidelines, and the DSAP Design Guidelines, new residential development, such as the Park and Delmas Residential project, is required to incorporate outdoor spaces and recreational amenities. Outdoor spaces incorporated into new housing development would supplement the public open space network and add to neighborhood-serving amenities in the Plan area. The project includes an outdoor space oriented around the large oak tree fronting Sonoma Street.

To offset demand for parkland, community centers, and other recreational facilities, residential developers, including the project proponent, are subject to the City's PDO/PIO. Consistent with the Strategy 2000 EIR, development under the DSAP can satisfy its parkland obligation through a combination of several means, including: 1) dedication of land; 2) payment of PDO/PIO fees, to be based on the number of dwelling units; 3) credit for qualifying private recreational amenities; and 4) improvement of parkland or recreational facilities. Given the size of the site and proposed density, the project intends to pay applicable fees and obtain credit for qualifying amenities.

The PDO/PIO fees generated by new residential development will be used to provide neighborhood-serving facilities within a 0.75 mile radius of the development site and/or community-serving facilities within a three-mile radius (GP Policies PR-2.4 and PR-2.5). The PDO/PIO fees could be used to fund the design and construction of the future park at the Fire Training Facility site.

Although development allowed under the DSAP would contribute to demand for parkland and recreational facilities in the Central/Downtown Planning area, the proposed project would not result in a new or more significant impact than previously identified in the DSAP FEIR. It is anticipated that construction or expansion of parkland and recreational facilities, utilizing fees collected from development including the subject project, to accommodate increased demand would not result in significant environmental effects with implementation of General Plan policies and existing regulations. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.14.3 Conclusion

The proposed project would contribute to increased demand for fire and police protection services, libraries, school, parkland, and recreational facilities in San José, but planned growth is not anticipated to result in the need for construction of facilities in excess of those currently planned, and would not result in significant impacts on the physical environment resulting from increased demand for public facilities or services, which is consistent with the discussion in the DSAP FEIR.

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

4.15 RECREATION

4.15.1 Setting

4.15.1.1 *Recreational Facilities*

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of parks, trails, community centers, and other recreational facilities in San José. The nearest public parks (within one third-mile) to the project site are Guadalupe River Park, Discovery Meadow (located 0.1 miles east of the site, on the corner of West San Carlos Street and Woz Way) and Arena Green East Park (approximately 0.3 miles north of the site, located on the corner of West Santa Clara Street and North Autumn Street). Planned facilities in the vicinity include Reach 5 of the Los Gatos Creek Trail, build-out of the Guadalupe River Park and Gardens Master Plan, and a community park on the San José Fire Department (SJFD) Training Facility site within the DSAP area.

The City's Parkland Dedication Ordinance (PDO) and the Park Impact Ordinance (PIO) requires new residential development to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population San José residents either through dedication of parkland to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development.

4.15.1.2 *Applicable Plans, Policies and Regulations*

Quimby Act-California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Parkland Dedication Ordinance and the Park Impact Ordinance

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

Envision San José 2040 General Plan

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

General Plan Policies: Parkland and Recreational Facilities	
Parks, Trails, Open Space, and Recreation	
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
Action PR-1.12	Regularly update and utilize San José’s Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a three-quarter mile radius of the project site that generates the funds.

4.15.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Parks and Recreation Conclusions

As disclosed in the DSAP FEIR, future development under the DSAP would contribute to demand for parkland and recreational facilities in the Central/Downtown Planning area of the General Plan, implementation of the DSAP would not result in significant impacts. Construction or expansion of parkland and recreational facilities as a result of development under the DSAP would have less than significant environmental effects.

An eight-acre new community park will be developed under the DSAP. The existing San José Fire Department Training Facility located at 255 South Montgomery Street (approximately one-quarter mile west of the project site) and the adjacent car wash business properties would be removed/relocated to accommodate the new eight-acre park. The park will include a range of active and passive recreation activities such as playgrounds, picnic areas, multi-use lawns, and/or sports fields/courts. The new community park will also incorporate a portion of the planned Los Gatos Creek Trail. This Los Gatos Creek trail provides a link to the Guadalupe River Trail, the City’s trail network, enhances access to parks, recreation and open space in the City of San José.

4.15.2.1 Impacts of Project on Recreational Facilities
(Checklist Items 1 and 2)

The project would include approximately 394 residents and impacts to parks and recreational facilities from the proposed project could result from increased demand and use of the facilities. The construction of the planned parks and trails (e.g., a community park on the SJFD Training Facility site proposed by the DSAP and Los Gatos Creek Trail, Reach 5) would help offset the current and future demand for recreational facilities. The proposed project also includes a 23,355 square foot common open space area (which would include an outdoor kitchen, seating and a fire pit) within the development to reduce the project’s demand on parkland and recreational facilities. To further offset demand for parkland and recreational facilities, the project would be subject to the City’s PDO/PIO. The project would be subject to the payment of PDO/PIO fees (based on the number of residential units) which would be used to provide neighborhood-serving facilities within a three-quarter mile radius of the project site and/or community serving facilities within a three-mile radius. For these reasons, the proposed development (which was accounted for in the DSAP FEIR), would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur or be accelerated due to overuse.

Since development on the site was accounted for in the DSAP, the proposed project's recreational area (23,355 square foot common open space area) would not result in new or more significant environmental effects than assumed in the DSAP FEIR.

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

4.15.3 Conclusion

The proposed project would not result in new or more significant impacts to recreation than disclosed in the certified DSAP FEIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 TRANSPORTATION

4.16.1 Setting

4.16.1.1 *Background Information*

In June 2014, the City of San José (City) certified the Diridon Area Station Plan (DSAP) Final EIR, which provides project-level environmental clearance for future projects in the Downtown Core for intersection and freeway operation impacts. The DSAP area is divided into three zones: 1) the Northern Zone which is generally north of The Alameda, 2) the Central Zone which is the core area centered on Diridon Station, and the Southern Zone is generally between Park Avenue and Interstate 280. The proposed project would develop 123 residential units and 1,000 square feet of retail space within the Southern Zone of the DSAP area and in the Park/San Carlos subarea designated for mixed used residential development.

There have not been any substantial modifications to the area transportation facilities since certification of the DSAP Final EIR.

4.16.1.2 *Existing Conditions*

Roadway Network

The project area roadway network is comprised of freeways, arterial streets, major collectors, local streets, and freeway interchanges. Regional access to the project area is provided by State Route (SR) 87.

State Route 87 (SR 87) is primarily a six-lane freeway [four mixed-flow lanes and two High Occupancy Vehicle (HOV) lanes] that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101. Access to the project site to and from SR 87 is provided via interchanges at Park/Delmas Avenues, and Auzerais Avenue/Woz Way.

The roadways providing local access to the project site are described as follows:

San Fernando Street is an east-west two-lane street, north of the project site, which runs through the heart of downtown San José. It begins at 17th Street and extends west, terminating at the San José Diridon Station.

Park Avenue is an east-west collector that runs from Market Street to the city of Santa Clara. Park Avenue has four lanes from Market Street to Delmas Avenue and from Montgomery Street and Sunol Street, but otherwise has two lanes. A ramp from southbound SR 87 ends at the corner of Park and Delmas, the northeast corner of the project site.

San Carlos Street is a four-lane east-west arterial south of the project site that runs from 4th Street to Bascom Avenue, where it becomes Stevens Creek Boulevard.

Auzerais Avenue is a two-lane east-west street south of the site that extends from Woz Way to Meridian Avenue.

Delmas Avenue is a north-south one-lane street that extends from West Santa Clara Street to Auzerais Avenue and provides primary access to the site. Delmas becomes a one-way southbound street south of San Fernando and terminates as a southbound SR 87 on-ramp just south of Auzerais Avenue.

Sonoma Street is a north-south two-lane street that comprises the site's western boundary. Sonoma Street extends two blocks, between Lakehouse Avenue and San Carlos Street.

Pedestrian and Bicycle Facilities

Pedestrians can access the site via sidewalks on both sides of Delmas Avenue, Park Avenue, San Carlos Street, and Sonoma Street. Signalized intersections with pedestrian signal heads at crosswalks are located at the intersections of Delmas/Park Avenues and Delmas Avenue/San Carlos Street.

The Guadalupe River multi-use trail system is a multi-use, recreational trail that is shared between pedestrians and bicyclists and is separated from motor traffic. The Guadalupe River trail is an 11-mile continuous Class I bikeway (bike paths off-street) that can be accessed via Park Avenue just east of SR 87, approximately 600 feet east of the project site. The Guadalupe River trail extends from Curtner Avenue in the south to Alviso in the north. In addition, San Fernando Street contain Class II bicycle facilities (striped lanes) in the project vicinity. No other roadways in the immediate vicinity of the project site contain bike lanes.

Transit Service

The Valley Transportation Authority (VTA) is the primary provider of transit service in Santa Clara County. VTA operates over 70 bus lines, three light rail transit (LRT) lines, several shuttles, and paratransit services. Diridon Station (located approximately one-third mile northwest of the site) is currently served by six bus routes (63, 64, 65, 68, 168, and 181), as well as the DASH shuttle and Highway 17 express bus service. The DASH shuttle serves various Downtown destinations during weekdays, while the Highway 17 shuttle provides express service to Santa Cruz seven days a week. Additional bus routes operate on The Alameda/Santa Clara Street (22 and 522) and San Carlos Street (23 and 81).

The Winchester-Mountain View LRT line runs through the DSAP area, including along the east side of Delmas Avenue, across the street from the site. The LRT line has two stations at San Fernando Street and at Diridon Station. Another nearby LRT station is at the Children's Discovery Museum (Woz Way and San Carlos Street), about 600 feet southeast of the site. The LRT line currently operates seven days a week with 15-minute headways during commute hours and 30-minute or 60-minute headways at all other hours.

Additional transit services at Diridon Station serving the project area is provided by the Caltrain, Altamont Commuter Express (ACE), Amtrak, and Greyhound. These services are described further in the DSAP Final EIR.

Table 4.16-1: Existing VTA Bus Service near the Project Site

Bus Route	Route Description	Headway (min.)
Local Route 22	Palo Alto Transit Center to Eastridge Transit Venter	12
Local Route 23	DeAnza College to Alum Rock Transit Center	10-15
Local Route 63	Almaden Expressway & Camden Avenue to San José State University	30
Local Route 64	Almaden LRT Station to McKee & White via Downtown San José	15-30
Local Route 65	Kooser Road/Meridian Avenue to 13 th Street / Hedding Street	45
Local Route 68	Gilroy Transit Center to San José Diridon Station	15-20
Local Route 73	Snell / Capitol to Downtown San José	15
Express Route 168	Gilroy Transit Center to San José Diridon Station	30
Express Route 181	Fremont BART Station to San José Diridon Station	15
Rapid 522	Palo Alto Transit Center to Eastridge Transit Center	15
Hwy 17 Express	Downtown Santa Cruz/Scotts Valley to Downtown San José	10-30

Note: Headways are the approximate intervals between buses based on peak commute periods.

4.16.1.3 *Applicable Plans, Policies, and Regulations*

Envision San José 2040 General Plan

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

General Plan Policies: Transportation	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

General Plan Policies: Transportation	
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
Policy TR-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
Policy TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.

San José Bicycle Master Plan

The Bicycle Master Plan, also known as the San José Bike Plan 2020, defines the City’s vision to make bicycling an integral part of daily life in San José. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling is convenient, safe, and commonplace. The Bike Plan defines a 500 mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

City Council Policy 5-3

As established in the City Council Policy 5-3 “Transportation Impact Policy” (2005), the City of San José uses the same LOS method as the Santa Clara County Congestion Management Plan (CMP), although the City’s standard is LOS D rather than LOS E. According to this policy and General Plan Policy TR-5.3, listed above, an intersection impact would be satisfactorily mitigated if the implementation measures would restore level of service to existing conditions or better, unless the

mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (i.e. pedestrian, bicycle, or transit).⁴⁸ The City’s Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles. The project site is located within the Downtown Core, which is exempt from this Policy, meaning intersections within the Downtown Core are not required to maintain minimum LOS D, and increased vehicular congestion is considered acceptable, given the availability of non-auto modes of travel.

4.16.2 Environmental Checklist and Discussion of Impacts

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

⁴⁸ Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions. Exceptions to the standard are made for small, infill projects, the Downtown Core, and for impacts to Protected Intersections within Special Strategy Areas, including Transit Oriented Development Corridors and Transit Station Areas.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Transportation Conclusions

Buildout of the DSAP would not result in a significant impact to intersection operations, transportation hazards, emergency access, or air traffic patterns. Implementation of the DSAP would, however, would result in a significant unavoidable impact to freeway segment operations when compared to existing conditions.

4.16.2.1 Project Traffic Impacts

The project proposes to construct 123 residential units and 1,000 square feet (sf) of commercial uses on the project site. A below grade parking garage, accessed off of Delmas Avenue, would provide 155 vehicular parking spaces, 12 long-term bicycle stalls, and 31 motorcycle stalls. On-grade parking would include three temporary parking spaces and a passenger loading zone located off of Sonoma Street, as well as 19 on-grade parking stalls adjacent to the future retail/restaurant space on the corner of Park Avenue and Delmas Avenue.

The DSAP and City’s Downtown Zoning Regulations require the project provide one off-street parking space per residential unit. No off-street parking is required for the commercial/retail portion of the project. If 123 residential units are constructed, the project is required to provide 123 parking spaces. The excess 35 parking spaces proposed are intended for guests and retail customers.

Intersection and Freeway Segment Level of Service Impacts
(Checklist Items 1 and 2)

The proposed 123 residential units and 1,000 sf of commercial space are part of the 2,365 dwelling units and 203,000 sf of retail/restaurant space projected for the Southern Zone of the DSAP. The certified DSAP Final EIR evaluated the operating conditions of 104 study intersections in and outside of the Downtown Core. All 104 study intersections would continue to operate at LOS D or

better during both peak hours under existing plus DSAP build-out conditions. Therefore, the proposed project, as part of the DSAP buildout, would not conflict with level of service standards for intersection operations established by the CMA or City of San José. Build-out of the DSAP would result in a significant impact on 15 directional mixed flow freeway segments and four directional HOV lane freeway segments during at least one peak hour, when compared to existing conditions.

Build-out of the DSAP, including the project, would result in a significant impact to the intersections of The Alameda/Naglee Avenue and Park Avenue/Naglee Avenue under Downtown Strategy 2000 plus DSAP Build-out conditions. These intersections have been built to their maximum capacity due to right-of-way restrictions and there are no feasible improvements that would improve the level of service at these intersections to LOS D during the PM peak hour. These intersections serve as gateways to Downtown and as important transit, bicycle, and pedestrian corridors; therefore, the DSAP added these two intersections to the List of Protected Intersections. As a condition of DSAP approval, future developers (e.g. the project applicant) will be required to implement offsetting improvements to pedestrian, bicycle, and transit facilities in the vicinity of protected intersections.

The proposed project is part of the planned growth in the DSAP area and would not result in any new impacts or impacts of greater severity than previously disclosed in the certified DSAP Final EIR.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

4.16.2.2 *Other Transportation Issues*

Site Access, Design and Circulation

(Checklist Items 3, 4 and 5)

Primary access to the project garage would be via a driveway on Delmas Avenue at the south end of the site. A passenger drop-off area and short-term parking would also be provided on Sonoma Street at the northwest corner of the site. The lobby entrance for the residences would be located on Delmas Avenue.

The design of the project would comply with the City's standards for emergency vehicle access (including providing adequate points of access, vertical clearance, and turning radius) and therefore, would not result in inadequate emergency access.

Based on the discussions above, the proposed project would not result in a substantial hazard from a design feature, incompatible land use, or inadequate emergency vehicle access. The project, with a maximum building height of 61 feet at the top of the parapet, would not result in any hazards to air traffic or changes to air traffic patterns.

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

Bicycle and Pedestrian Facilities

(Checklist Item 6)

The project would not impact existing bicycle or transit facilities (e.g., result in the removal of a bike lane or transit stop). The project proposes to improve the sidewalks along the project site frontage by widening the sidewalks and incorporating street trees and street furniture.

Based on the above discussion, the project would not conflict with adopted policies, plans, or programs regarding bicycle, transit, or pedestrian facilities or decrease the performance or safety of such facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.3 Conclusion

Implementation of the proposed project would not result in new or more significant transportation impacts than previously disclosed in the DSAP FEIR or General Plan FEIR. Further, because the project site is located within the Downtown Core, no traffic mitigation is required. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

The DSAP FEIR identifies the sources of water supply, the systems for sanitary sewer service and treatment, storm drains, and solid waste service and disposal available to serve the Diridon Area. There have been no substantial changes in those systems since the DSAP FEIR was certified by the City Council. Electricity and gas in the area are provided by Pacific Gas & Electric.

4.17.1.1 *Water Service and Supply*

Water service to the project site is provided by the San José Water Company via a 12-inch water line on Delmas Avenue; and a 12-inch water line on Sonoma Street. There are currently no recycled water lines in the project area.⁴⁹

4.17.1.2 *Wastewater/Sanitary Sewer System*

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), formerly known as the San José/Santa Clara Water Pollution Control Plan (WPCP), in Alviso.⁵⁰ The RWF is the largest tertiary treatment plan in the western United States with a capacity to treat 167 million gallons per day (gpd) of sewage during dry weather flow. On average, the RWF treats 110 million gpd of wastewater. The resulting fresh water is discharged from the Facility into the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gpd of dry weather sewage flow. The City's share of the Facility's treatment capacity is 108.6 million gpd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.⁵¹

Sanitary sewer lines in the project area are inspected and maintained by the City of San José Department of Transportation, and rehabilitated and replaced by the Department of Public Works. Existing sewer lines on Park Avenue, Delmas Avenue, and Sonoma Street serve the project area. The project site currently generates no sewage as the office building is vacant.

4.17.1.3 *Storm Drainage*

The project site is developed and consists of both pervious and impervious surfaces. As described in Section 4.9 *Hydrology and Water Quality*, the City's stormwater drainage system is comprised of a network of inlets, manholes, pipes, outfalls, channels, and pump stations that function to collect, convey, and discharge runoff to receiving water bodies, protecting infrastructure and the public from flood waters during storm events.

⁴⁹ South Bay Water Recycling. *Recycled Water Pipeline System*. July 28, 2011.

⁵⁰ City of San José. "San José-Santa Clara Regional Wastewater Facility". Accessed September 30, 2015. Available at: <https://www.sanjoseca.gov/index.aspx?NID=1663>.

⁵¹ City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR*. November 2011.

4.17.1.4 Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2026.⁵² Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

The City of San José has an existing contract with Newby Island Sanitary Landfill (NISL) through December 31, 2020 with the option to extend the contract as long as the landfill is open. The City has an annual disposal allocation for 395,000 tons per year. As of March 2014, NISL had approximately 20.1 million cubic yards of capacity remaining.⁵³

4.17.1.5 Applicable Plans, Policies, and Regulations**Envision San José 2040 General Plan**

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

General Plan Policies: Utilities and Service Systems	
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

⁵² Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. May 2011.

⁵³ McGourty, Scott. Personal communications with Republic Services, Inc. Environmental Manager at NISL. May 19, 2014

General Plan Policies: Utilities and Service Systems	
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Assembly Bill 939

Assembly Bill 939 (AB 939) established the California Integrated Waste Management Board (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupant.

San José Zero Waste Strategic Plan/Green Vision

The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and

visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

4.17.2 Environmental Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7. Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

DSAP FEIR – Utilities and Service Systems Conclusions

The DSAP FEIR concluded that, although the DSAP would require the construction, expansion, or replacement of storm drain, water distribution, and sanitary sewer lines in the Plan area, the completion of these activities as part of future development or transportation projects would not cause significant environmental effects with implementation of construction BMPs and General Plan policies.

4.17.2.1 *Project Impacts to Utilities*

Water Service and Supply *(Checklist Items 2 and 4)*

The subject site currently generates no demand for water, as the office building is vacant and the site is not irrigated. To provide water service to the project, a new six-inch water line and fire hydrant would connect to the existing 12-inch water line on Delmas Avenue; a new fire hydrant would also connect to the existing 12-inch water line on Sonoma Street. Utilizing water demand rates and the average household size from the DSAP FEIR, the project with 123 units and resident population of approximately 394 would require approximately 30,732 gallons per day (gpd), assuming 78 gpd per capita. The proposed units and resulting new site population are consistent with the development assumptions for the site in the DSAP FEIR, which considered the cumulative water demand from future development in the Plan area would be roughly 3,575 acre feet per year (3,183,219 gpd), based on long range water supply planning completed as part of the Envision San José 2040 General Plan. The DSAP FEIR concluded implementation of water conservation/efficiency measures and use of recycled water, where available, would minimize the long-term potable water demand generated by future development, as well as reduce the vulnerability of development in the case of future water shortages due to global climate change.

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

Wastewater/Sanitary Sewer System *(Checklist Items 1, 2 and 5)*

Assuming that 80 percent of water used ends up as wastewater, the DSAP as a whole would generate up to 2.5 million gpd of sewage, based on current water use rates, and the current specific project would generate 24,586 gpd. The project site would construct new four- to six- inch sanitary sewer lines which would connect to existing eight-inch sewer lines on Park Avenue, Delmas Avenue, and Sonoma Street. The project is not anticipated to exceed the capacity of these existing sewer lines.

According to the General Plan FEIR, development under the 2040 General Plan (which includes future growth in the DSAP area) is estimated to generate approximately 30.8 mgd of average dry weather influent flow. Given that the City has approximately 38.8 mgd of excess treatment capacity, planned growth in San José is not expected to exceed the City's allotted capacity. For these reasons, future development under the DSAP, including the current project, would not require new or expanded wastewater treatment capacity.

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

Storm Drainage (Checklist Items 3)

As described in the DSAP FEIR Section 4.9 *Hydrology and Water Quality*, development allowed under the DSAP projects could contribute runoff that adversely affects operations of the existing stormwater drainage system, given that many of the storm drains in the Plan area have inadequate capacity and/or do not meet the City's 10-year storm event design standard. New development, such as the current project, will be required to provide on-site storm drain systems meeting the City's design standard and NPDES permit requirements and to construct (or contribute to the construction of) off-site improvements if needed due to significant downstream deficiencies.

Stormwater runoff from the site would be collected via new storm drains which would be directed to bio retention basins/overflow drains and a storm drain media filter vault (which would be located in the northwest corner of the project site). The stormwater directed to the media filter would be treated then directed to the City's existing 15-inch storm drain on Park Avenue. Stormwater would also be treated by stormwater bio-treatment planters on-site (refer to Figure 3.2-5 for the stormwater control plan). While the project would increase the amount of impervious surface area on the site, and resulting amount of runoff, that runoff would be managed and treated in accordance with City policies and not exceed the capacity of the existing storm drain system.

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

Solid Waste (Checklist Item 6)

According to the General Plan FEIR, planned growth under the 2040 General Plan (which includes the DSAP and the current project) could increase the amount solid waste sent to landfills by approximately 571,500 tons per year through 2035, using current generation rates.⁵⁴ This estimate represents the upper limit of potential landfilling needs given that disposal rates will likely continue to decrease overtime. Based on the upper limit, the existing landfills in San José would have sufficient *permitted* capacity of 5.3 million tons per year to receive the additional waste generated by new development in the city. Without additional waste reduction, however, local landfills could reach *actual* capacity by 2025.⁵⁵

The City intends to extend the lifespan of existing landfills through implementation of the Zero Waste Strategic Plan, which supports the City's goal of 100 percent diversion by 2022. Under the Zero Waste Strategic Plan, the City will utilize techniques such as source reduction, reuse, and composting. Compliance with the CALGreen Code and CARB's the California Department of Resources Recycling and Recovery's (CalRecycle) Mandatory Commercial Recycling Measure would complement local efforts and further reduce demand for landfill facilities. As redevelopment proceeds and diversion rates increase overtime, the City will ensure adequate landfill capacity through monitoring the availability of collection, transfer, recycling, disposal, and waste processing services; periodically assessing infrastructure needs; and working with Materials Recovery Facilities

⁵⁴ This estimate is based on waste generation rates for land use types provided by the City's Environmental Services Department and CalRecycle's website: <http://www.calrecycle.ca.gov/WasteChar/WasteGenRates/default.htm>.

⁵⁵ Permitted capacity is the volume of waste that can be received at a landfill under regulatory permits, while actual capacity is the physical space available in the landfill to receive waste.

(MRF) and landfill operators to expand capacity as needed (GP Policies IN-5.1, IN-5.4, and IN-5.15). With implementation of General Plan policies and the Zero Waste Strategic Plan, the General Plan FEIR concluded that solid waste generated by future development under the 2040 General Plan would not exceed the permitted or actual capacity of existing landfills.

Using similar assumptions as the General Plan FEIR, the DSAP FEIR estimated that development under the DSAP could generate approximately 44,000 tons of solid waste per year, which includes solid waste generated by the current project. Because planned growth in the Plan area, including the current project, was generally evaluated in the General Plan FEIR, the DSAP would not generate new waste above projected levels and existing landfills would have capacity to serve the proposed project.

Future development in the DSAP, including the current project, will be required to comply with existing local and state programs and regulations. For example, in accordance with the current CALGreen Code, specific projects are required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures.⁵⁶ With implementation of the existing programs, state regulations, General Plan policies, and the City's Zero Waste Strategic Plan, the DSAP, including the current specific project, would not result in a significant impact related to the provision of solid waste services. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Conclusion

The proposed project would not result in new impacts to utilities and services systems than those addressed in the DSAP FEIR.

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

⁵⁶ Future projects could be required to incorporate additional measures as part of Zero Waste Strategic Plan or other state and local regulations.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12, 13
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9,18
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-18
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9,14 16,17, 18

4.18.1 Project Impacts

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified standard measures and mitigation measures. As discussed in *Section 4.4 Biological Resources*, the project would not significantly impact sensitive habitat or species. While the existing unoccupied on-site office building is not historically

significant, there is a potential for buried archaeological and paleontological resources to occur on-site. Implementation of the identified standard measures in *Section 4.5 Cultural Resources*, would avoid or reduce impacts to cultural resources to a less than significant level. The project would not result in new or more significant impacts than identified in the certified DSAP FEIR.

4.18.2 Cumulative Impacts

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

Because a project’s criteria air pollutants would contribute to regional and global emissions of such pollutants, the identified project-level thresholds were developed such that a project-level impact would also be a cumulatively considerable impact. Although the proposed project would contribute to regional air quality emissions and a significant unavoidable impact disclosed in the DSAP FEIR, the project would not make a substantial contribution to cumulative air quality impacts.

The proposed project was analyzed for cumulative health risk associated with construction-related emissions. Results of the analysis show that the project would not contribute to cumulative health risks (refer to Section 4.3, *Air Quality* and Appendix A). A GHG assessment was also completed (refer to Section 4.6, *Greenhouse Gas Emissions* and Appendix A). Since the proposed project’s GHG emissions is below BAAQMD’s bright line threshold of 1,100 metric tons of CO₂e, the project would not have a cumulatively considerable contribution to global climate change.

The proposed project would contribute to significant unavoidable impacts to noise (specifically traffic noise levels) and traffic (e.g., intersection and freeway level of service impacts). The proposed project would, however, not cause these impacts to become more significant than the impacts disclosed in the DSAP FEIR.

With the implementation of the identified mitigation measures and standard measures, the project would not significantly impact biological resources, cultural resources, geology and soils, hazardous materials, and hydrology and water quality and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forestry resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project’s cumulative impact on aesthetics, land use, population and housing, public services, recreation, and utilities were analyzed in the certified DSAP FEIR. The project would not result in any new or more significant cumulative impacts than the approved DSAP. Mitigation measures were adopted for the DSAP where feasible, and will be implemented by the subject project.

There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a new or greater cumulatively considerable impact not previously identified by DSAP FEIR.

4.18.3 Short-term Environmental Goals vs. Long-term Environmental Goals

The project site is currently developed with one commercial building and surface parking lot. The project proposes to redevelop the site with residential and commercial uses, consistent with the long-term goals for the site outlined in the DSAP. The construction of the project would result in the temporary disturbance of developed land as well as an irreversible and irretrievable commitment of resources and energy during construction.

Construction of the proposed project would not result in the conversion of a greenfield site (i.e., land which is undeveloped land in a city or rural area used for agriculture) to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to develop a currently underutilized, infill location in the Southern Zone of the DSAP area, and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals for the Downtown Core. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy. The project shall incorporate a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections to reduce energy use and conserve water.

With implementation of the mitigation measures included in the project and compliance with City General Plan policies, the proposed project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

4.18.4 Direct or Indirect Adverse Effects on Human Beings

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include hazardous materials and noise. However, implementation of mitigation measures and General Plan policies would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

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SECTION 6.0 AUTHORS AND CONSULTANTS

Lead Agency

City of San José

Department of Planning, Building, and Code Enforcement

Harry Freitas, Director

Jason Rogers, Division Manager, Environmental Review Manager

Meenaxi. R. Panakkal, Senior Environmental Planner

Thai-Chau Le, Planner I

Consultants

David J. Powers & Associates

Environmental Consultants and Planners

Akoni Danielsen, Principal Project Manager

Amber Sharpe, Associate Project Manager

Zach Dill, Graphic Artist

Charles M. Salter Associates, Inc.

Acoustical Consultants

Valerie Smith

Alexander K. Salter, PE

Environ International Corporation

Hazardous Materials Consultants

Anne Gates, PE, Senior Manager

Illingworth & Rodkin

Air Quality and GHG Consultants

James Reyff, Principal

William Popenuck, Consultant

Monarch Consulting Arborists, LLC

Biological Consultants/Arborist Services

Richard Gessner

Pacific Geotechnical Engineering

Geotechnical Consultants