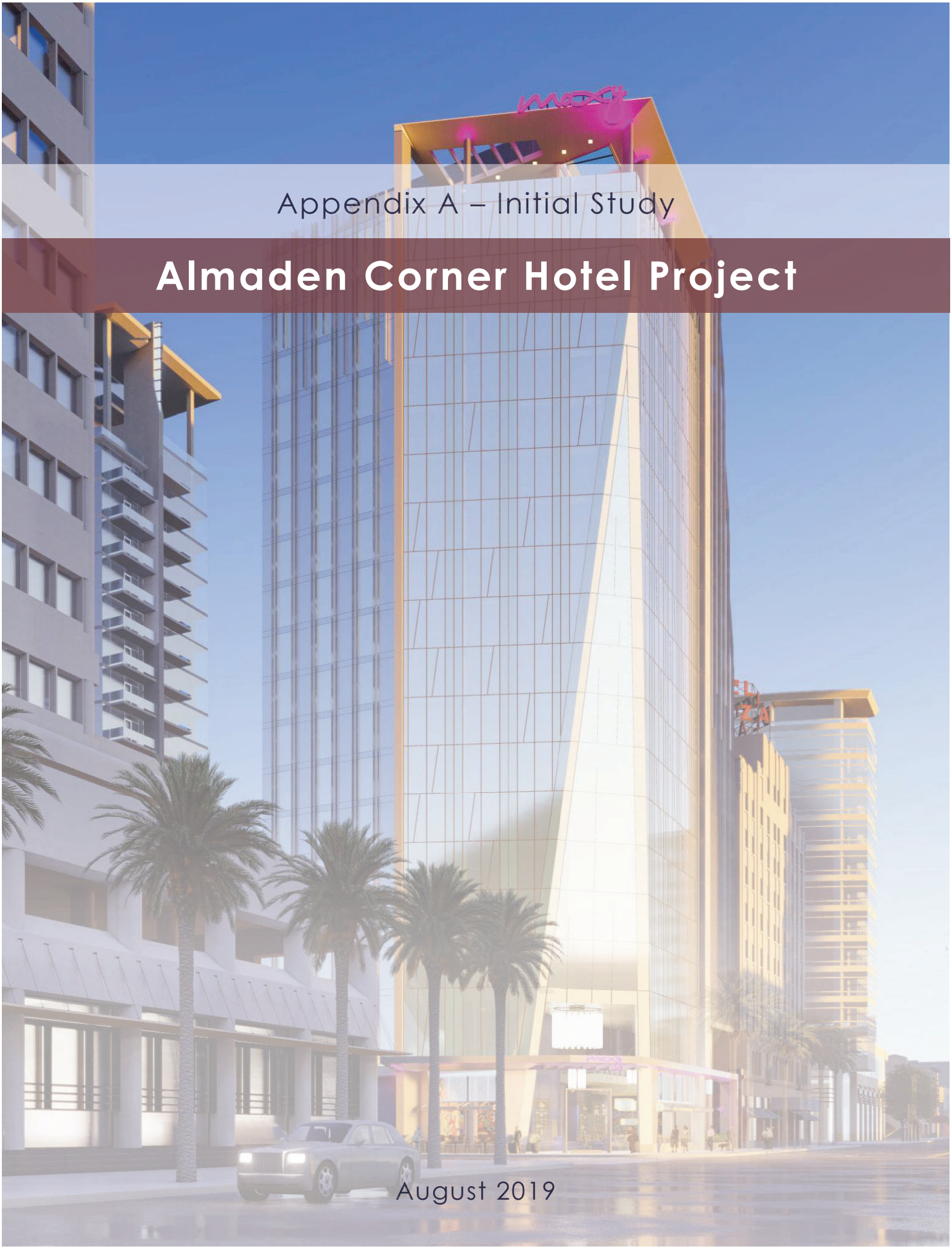

Appendix A – Initial Study

Almaden Corner Hotel Project

August 2019

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ACRONYMS AND ABBREVIATIONS

CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
MND	Mitigated Negative Declaration
NOD	Notice of Determination
RWQCB	Regional Water Quality Control Board
USFWS	United States Fish and Wildlife Service

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

1.1.1 Envision San José 2040 General Plan

In 2011, the City of San José approved the 2040 General Plan and the *Envision San José 2040 General Plan Final Program Environmental Impact Report* (General Plan FEIR), which is a long-range program for the future growth of the City. The General Plan FEIR (as amended) was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development.

In December 2015, the City of San José approved an Envision San José 2040 Plan Supplemental FEIR (General Plan SFEIR*)* for the General Plan to include and update the greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR, SFEIR, and addenda thereto modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same.

1.1.2 Downtown Strategy 2040 Environmental Impact Report

In December 2018, the City of San José certified the *Downtown Strategy 2040 Environmental Impact Report* (Resolution No. 78942) (Downtown Strategy 2040 FEIR). The Downtown Strategy 2040 FEIR was necessary to respond to changed environmental circumstances and conditions since Downtown Strategy 2000 was adopted by the City Council in 2005.

The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy is necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development.

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

1.2 NOTICE OF DETERMINATION

If the project is approved, the City of San José shall file a Notice of Determination (NOD), which shall be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

Tiering of the Environmental Review

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, this Initial Study, as part of the Supplemental Environmental Impact Report (SEIR), tiers from the certified 2018 Downtown Strategy Final Environmental Impact Report (EIR) (SCH#2003042127).

CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the Lead Agency. "Tiering" refers to using the analysis of general matters contained in a broader Environmental Impact Report (EIR) in subsequent EIRs or Initial Studies/Negative Declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project [CEQA Guidelines Section 15152(a)].

Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
    a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the proposed project description and knowledge of the project site, the City has concluded that the proposed project could result in new impacts not previously disclosed in the Downtown Strategy 2040 FEIR. For these reasons, a supplemental EIR is required and has be prepared for the proposed project to analyze the impacts of the project on Cultural Resources.

All documents referenced in this Initial Study are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, during normal business hours.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Almaden Corner Hotel Project

2.2 LEAD AGENCY CONTACT

Thai Chau-Le, Planner
City of San José – Department of Planning, Building, and Code Enforcement
408.535.3658
Thai-Chau.Le@sanjoseca.gov

2.3 PROJECT APPLICANT

KT Urban
21710 Stevens Creek Boulevard, Suite 200
Cupertino, CA 95014

2.4 PROJECT LOCATION

The project site is located at 270 West Santa Clara Street, at the northwest corner of West Santa Clara Street and North Almaden Boulevard. (see Figures 2.0-1 – 2.0-3)

2.5 ASSESSOR'S PARCEL NUMBER

APN: 259-35-055

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

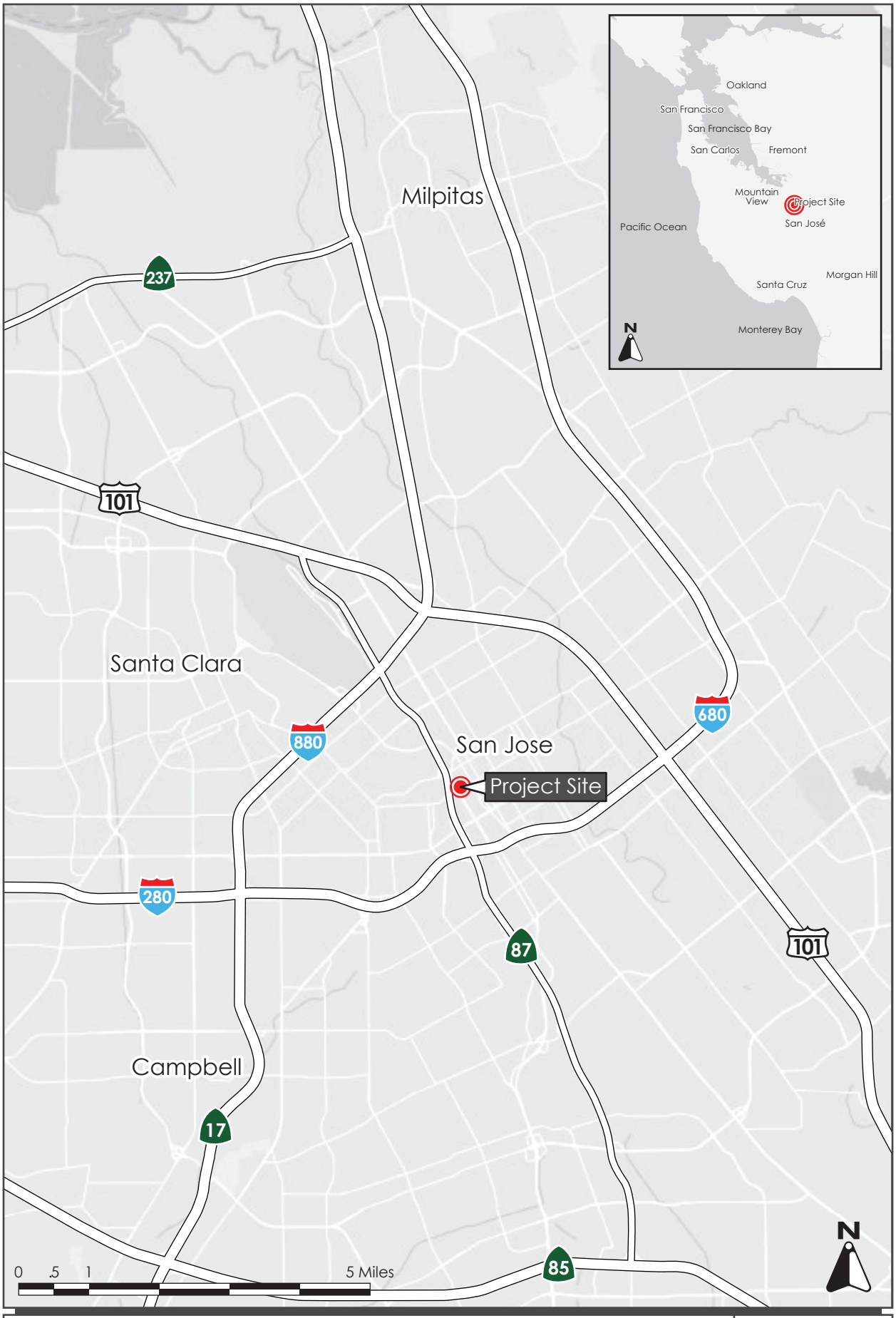
General Plan: *Downtown*
Zoning: *DC – Downtown Primary Commercial*

2.7 HABITAT PLAN DESIGNATION

Urban-Suburban

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Tentative Map
- Architectural Review
- Grading, Building Permits
- Disposition and Development Agreement
- Parking Agreements
- Public Easement Vacation/Street Vacation
- Other Public Works Clearances
- Easements, Sale of Land
- FAA Part 77 Surfaces Approval
- Site Development Permit



REGIONAL MAP | FIGURE 2.0-1

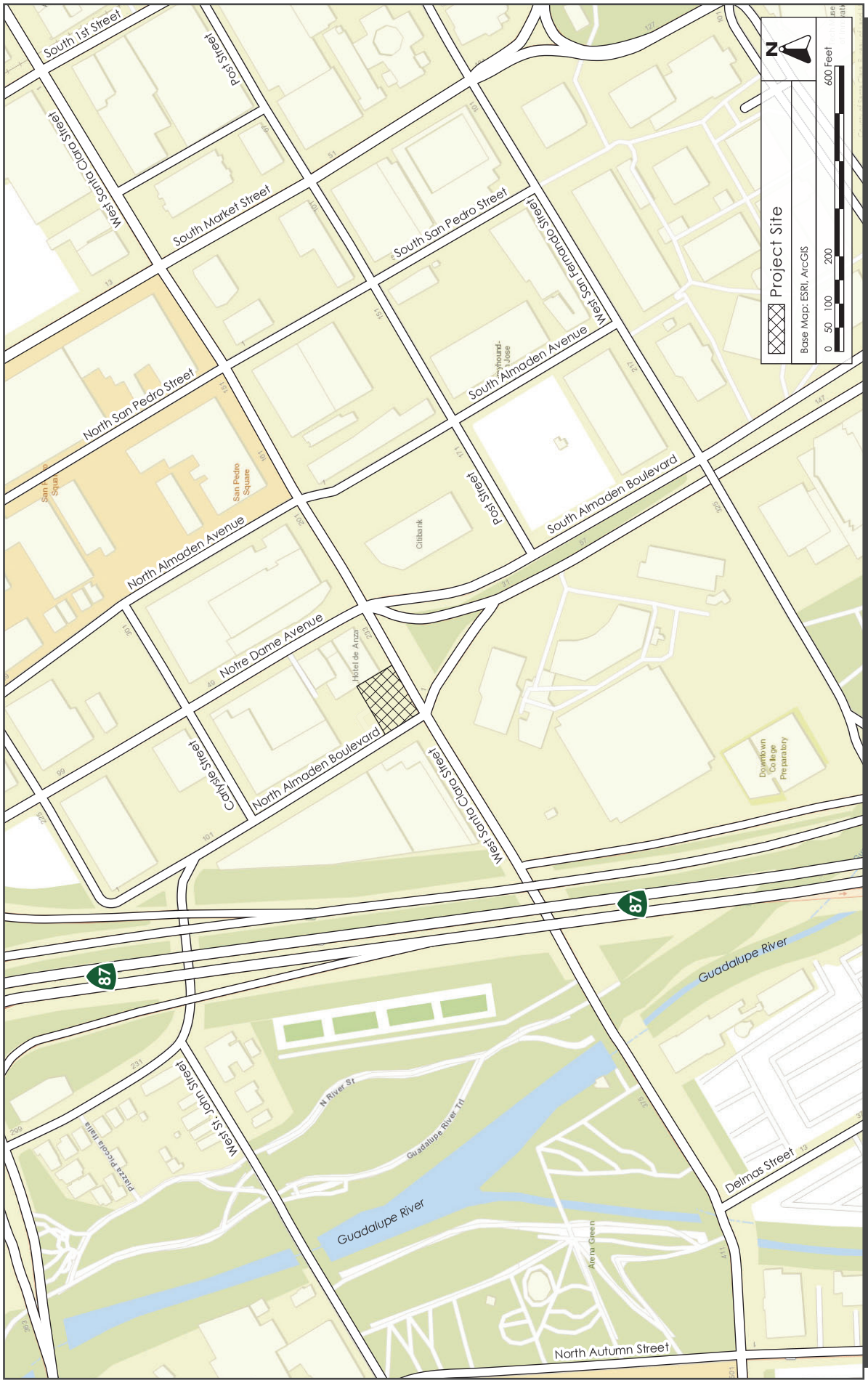


FIGURE 2.0-2

VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.0-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROPOSED DEVELOPMENT

3.1.1 Hotel Building

The 0.20-acre project site is currently developed with a private surface parking lot. The project proposes to remove the parking lot and construct a 146,282 square foot, 272-room hotel.[1] The 19-story building would reach a maximum height of 225 feet. The project would have a Floor Area Ratio (FAR) of 16.7. Guest rooms would be located on floors three through 18. Restaurants and bars are proposed on both the ground floor and the 19th floor. A library, administration offices, and fitness area for hotel guests and administration is proposed for the second floor.

The hotel building would have one basement level for utilities, and maintenance related services (e.g. housekeeping, linen room). Additional mechanical equipment would be located on the roof.

3.1.2 Common Areas and Landscaping

The proposed hotel includes a lobby and lounge area for guests on the ground floor. Restaurants and bars are proposed on both the ground floor and 19th floor and would be available for outside patrons. The 19th floor bar/restaurant would be enclosed and would provide access to an open-air patio. The bar/restaurant would have a maximum occupancy of 135 people and is proposed to operate from 4:00 PM to midnight.

On-site landscaping would include planter boxes and street trees along the perimeter of the building along East Santa Clara Street.

3.1.3 Building Setbacks

The project footprint would be set back 2.5 feet from the northern property line, three feet from the eastern property line, and zero feet from the sidewalks on West Santa Clara Street and Almaden Boulevard.

3.1.4 Site Access and Parking

The existing sidewalks along East Santa Clara Street and North Almaden Boulevard would provide hotel pedestrian access. Guests would have access from a main entrance on North Almaden Boulevard.

The project would provide parking for hotel patrons at an off-site location via a valet service and a parking agreement with the City of San Jose of up to 30 years. Off-site parking would be provided at the City owned San Pedro Market Garage. The garage would provide up to 41 parking permits for use by hotel guests. Guest drop-off/pick-up would be located on Santa Clara Street and Almaden Boulevard.

[1] Please note that the technical reports prepared for this Initial Study analyzed a slightly larger project (153,275 square feet and 330 rooms), resulting in a conservative assessment of the project's impacts.

The project would include two valet parking spaces on Almaden Boulevard and three valet parking spaces on Santa Clara Street, for a total of five valet parking spaces. Valet staffing would be dependent on demand with up to 10 valet attendants during both the AM and PM Peak Hours at maximum hotel occupancy. Because all parking is off-site, the valet service would operate 24 hours a day, seven days a week. The proposed Valet Parking Operations plan is included in Section 4.17 Transportation of this Initial Study and in Appendix G1.

The project proposes the following Transportation Demand Management measures:

- Free Santa Clara Valley Transportation Authority SmartPass for employees
- Employee parking incentives to avoid off-site parking
- On-site Transportation Demand Management Coordinator

3.1.5 Utility Improvements/Mechanical Systems

The existing utilities in the project area would serve the proposed hotel. The project would treat stormwater on-site utilizing planter boxes and mechanical filtration prior to discharge to the City's stormwater system.

The project would include installation of one 400-kilowatt (kW) emergency back-up diesel generator (approximately 600 horsepower) to provide emergency backup power to the building. The generator would be operated monthly for testing and maintenance purposes, up to a maximum of 50 hours per year total.[2] Consistent with permitting requirements, the generator would be required to meet U.S. Environmental Protection Agency (EPA) emission standards and consume commercially available California low sulfur diesel fuel. The generator would be located in the basement on the western end of the building.

The project would also include one fire pump with an approximately 200 horsepower engine. Similar to the emergency generator, the fire pump would have up to 50 hours of annual operation for testing and maintenance. The fire pump would be located in the basement on the northern end of the building.

3.1.6 Green Building Measures

The project would comply with the Private Sector Green Building Policy. This could be met by incorporating a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections.

3.1.7 On-site and Off-site Improvements and Construction

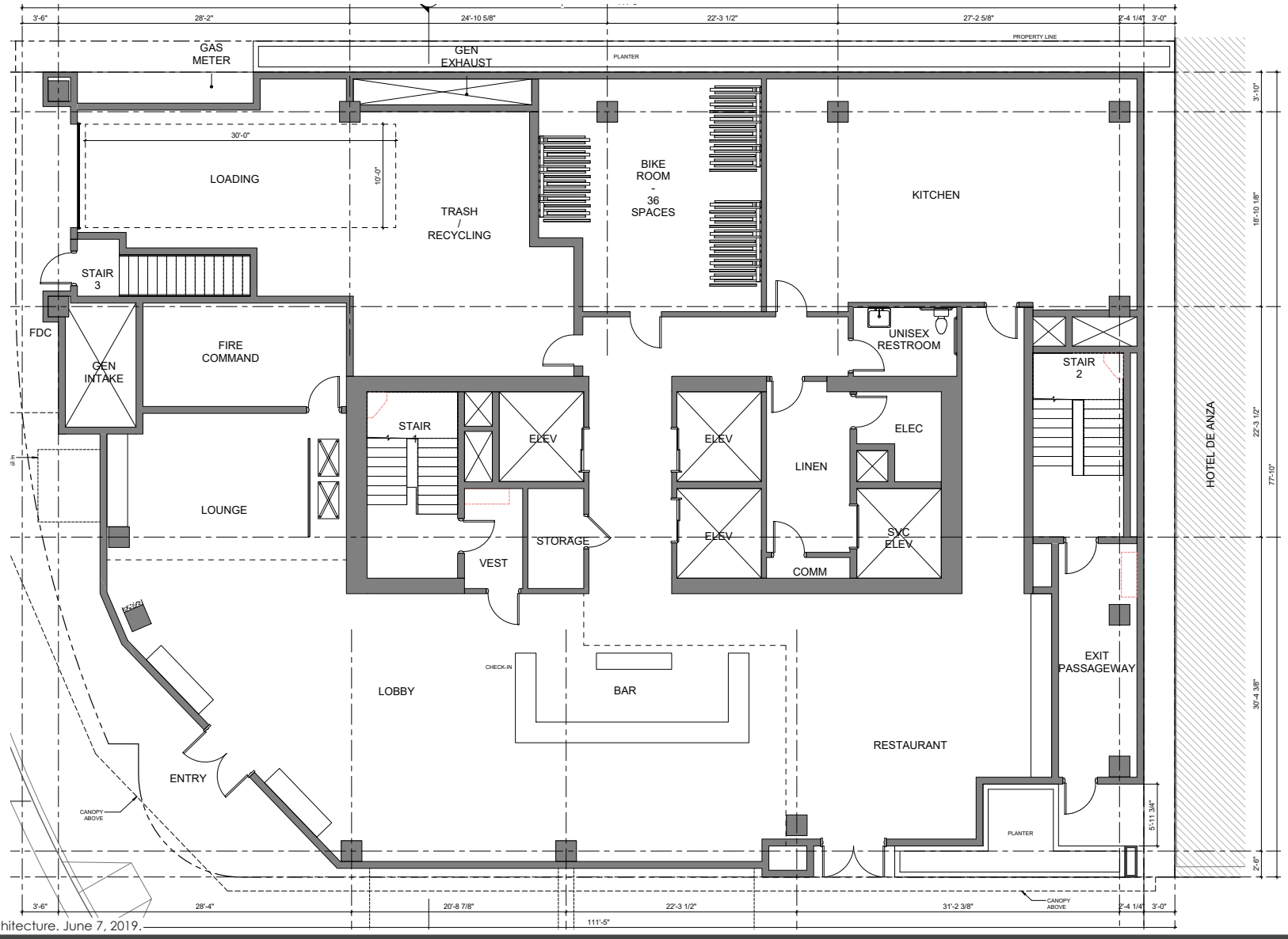
Project construction is estimated to occur over 18 months, approximately 390 workdays. Within those 390 workdays, it is estimated that site preparation/grading would take approximately 30 days, trenching/foundation work would take approximately 10 days, building construction would take approximately 230 days, and paving and architectural coatings would take approximately 40 days.[3]

[2] The annual maximum of 50 hours of testing accounts for non-emergency operations only and is separate from any required use of the generator in an emergency. Testing periods would run for less than one hour under light engine loads.

[3] Illingworth & Rodkin. Almaden Corner Hotel Construction Toxic Air Contaminant Assessment. August 2018.

Construction activities associated with the proposed project include utility connections, building construction, and frontage improvements (e.g., sidewalk improvements, and street tree planting). The site would be excavated to a depth of approximately 10 feet for the basement level. Pile driving is not proposed for the hotel construction.

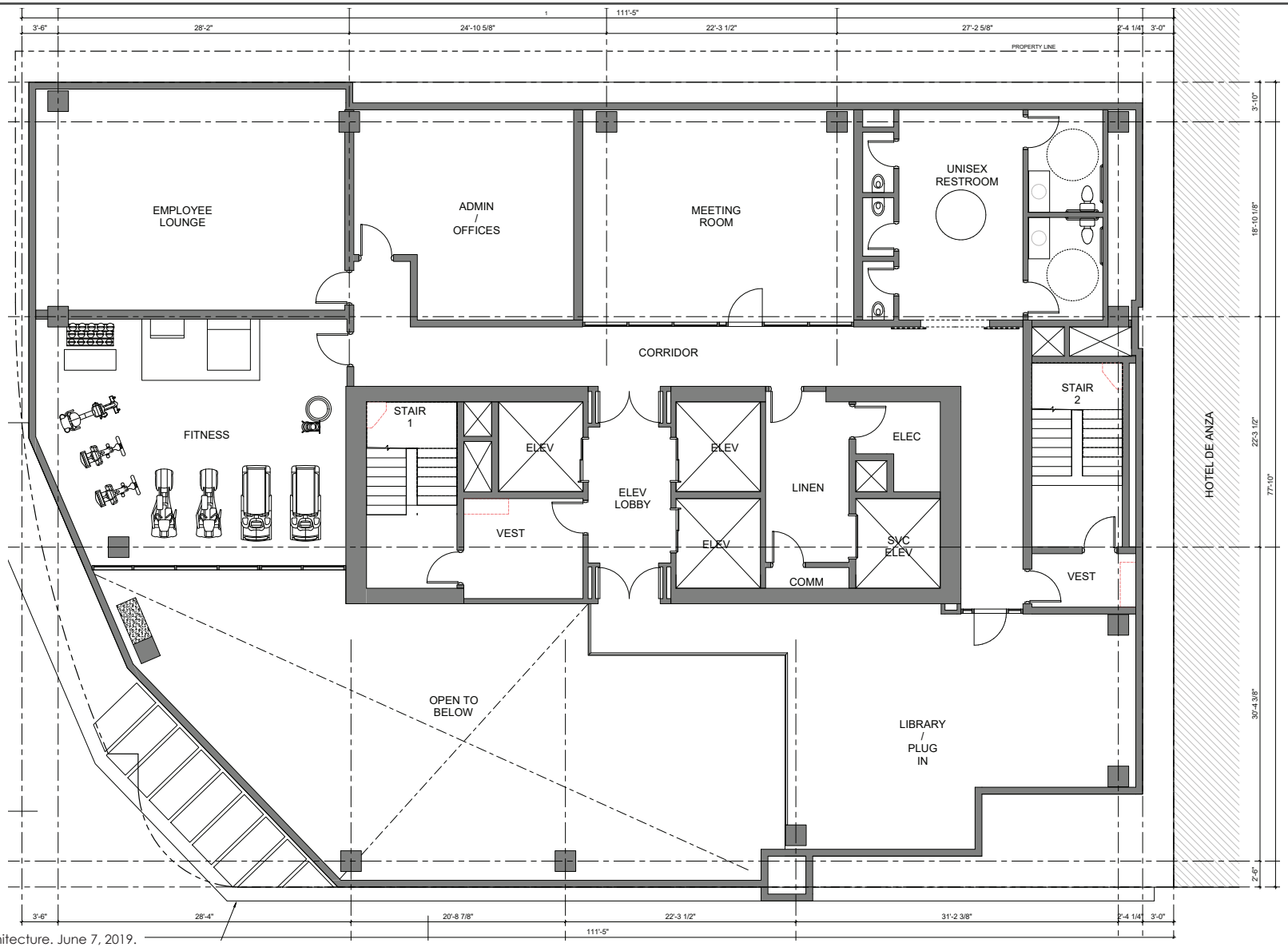
During construction, staging activities (e.g., equipment and material storage) would occur on and off the project site. The location of the off-site staging area has not been determined.



Source: C2K Architecture. June 7, 2019.

SITE PLAN (FIRST FLOOR)

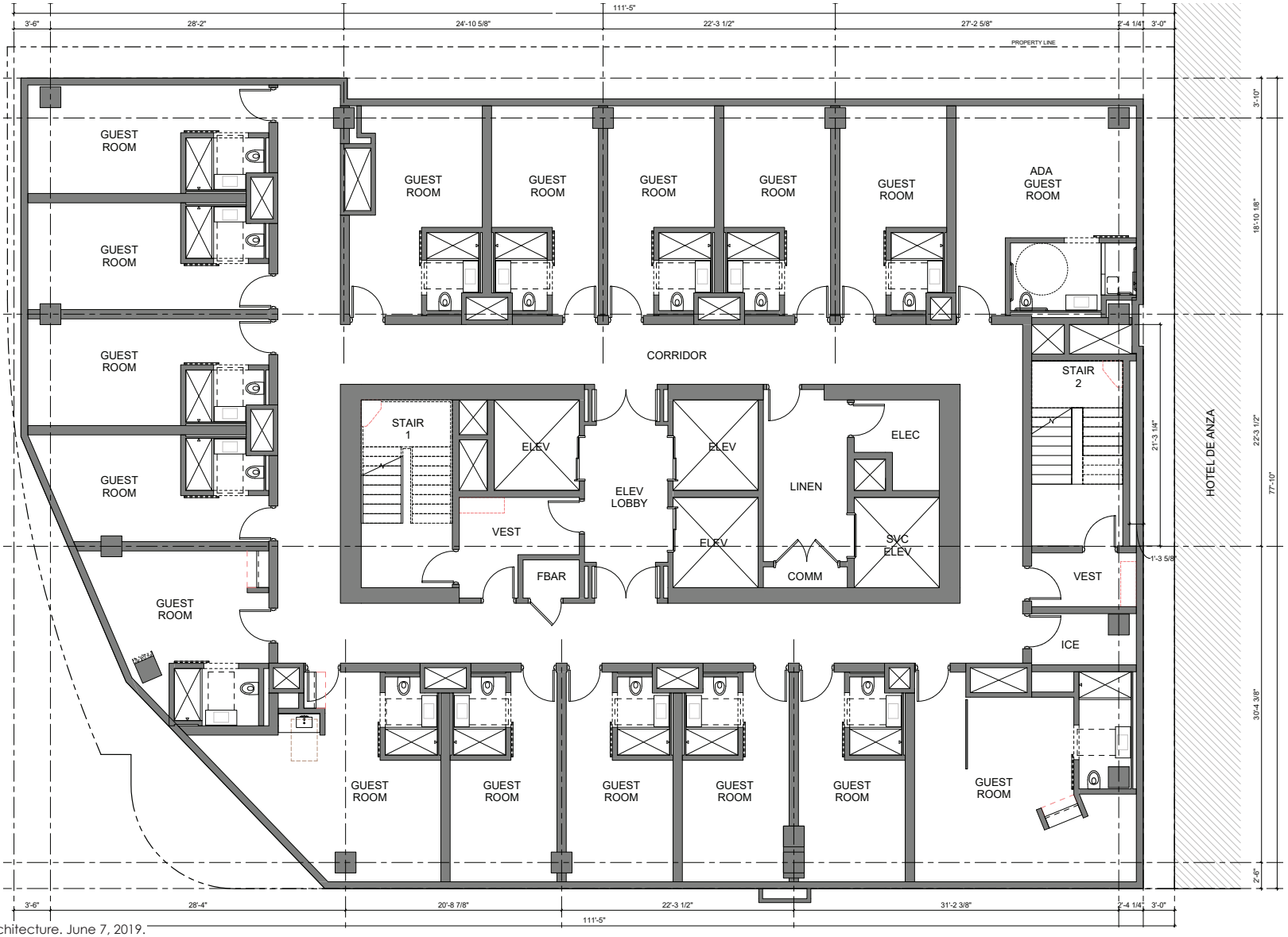
FIGURE 3.0-1



Source: C2K Architecture. June 7, 2019.

SITE PLAN (SECOND FLOOR)

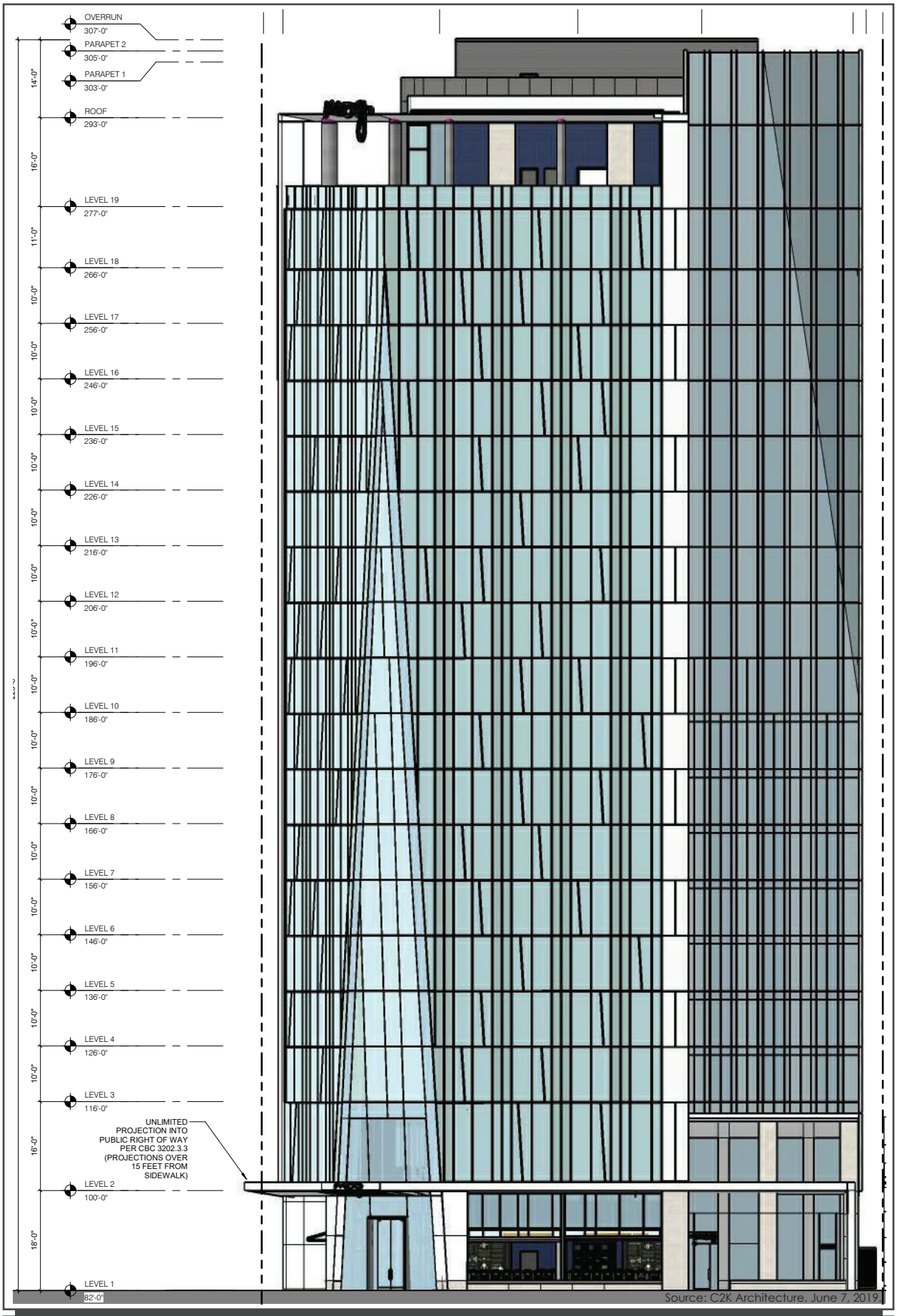
FIGURE 3.0-2



Source: C2K Architecture. June 7, 2019.

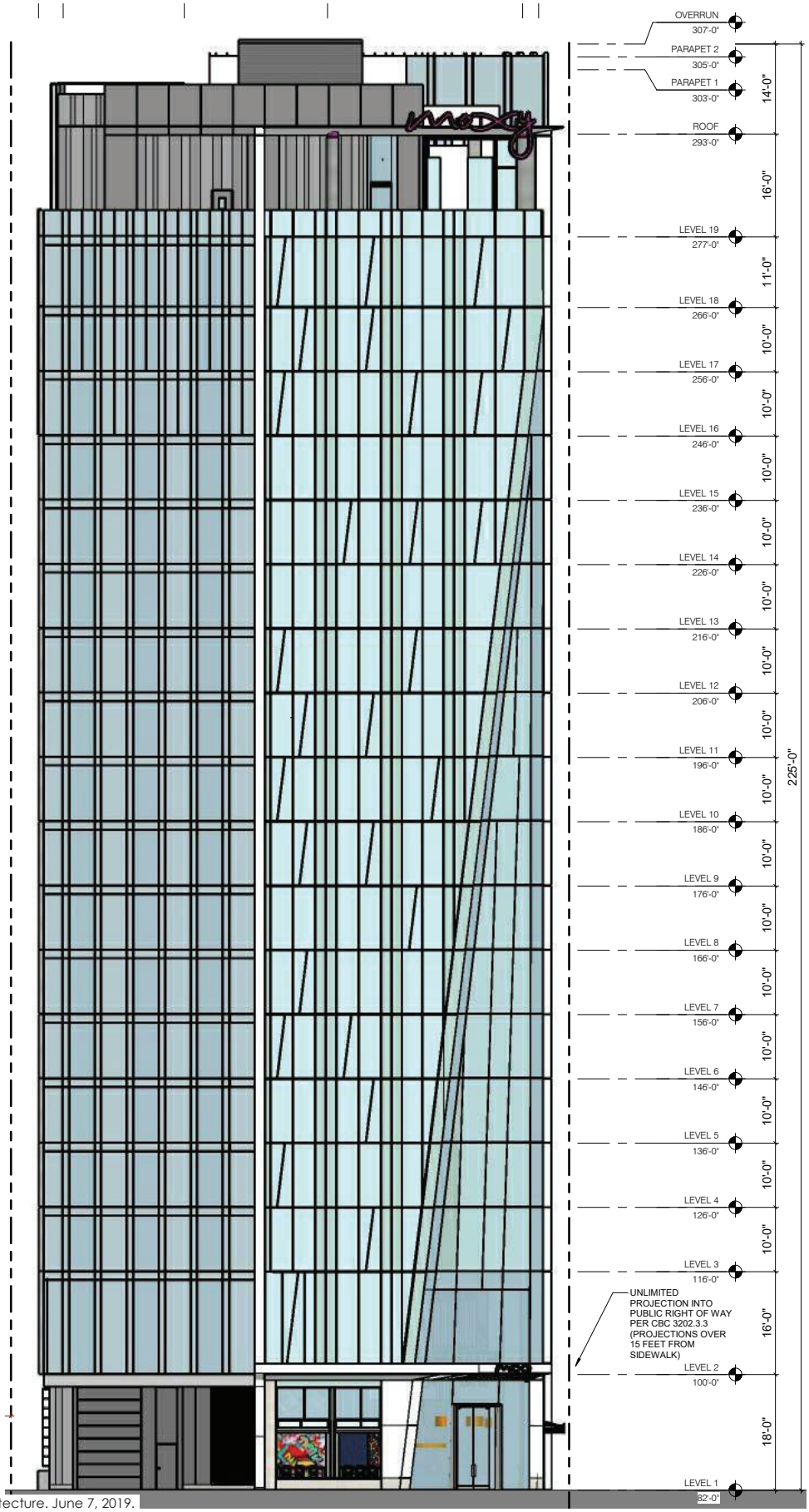
SITE PLAN (THIRD FLOOR)

FIGURE 3.0-3



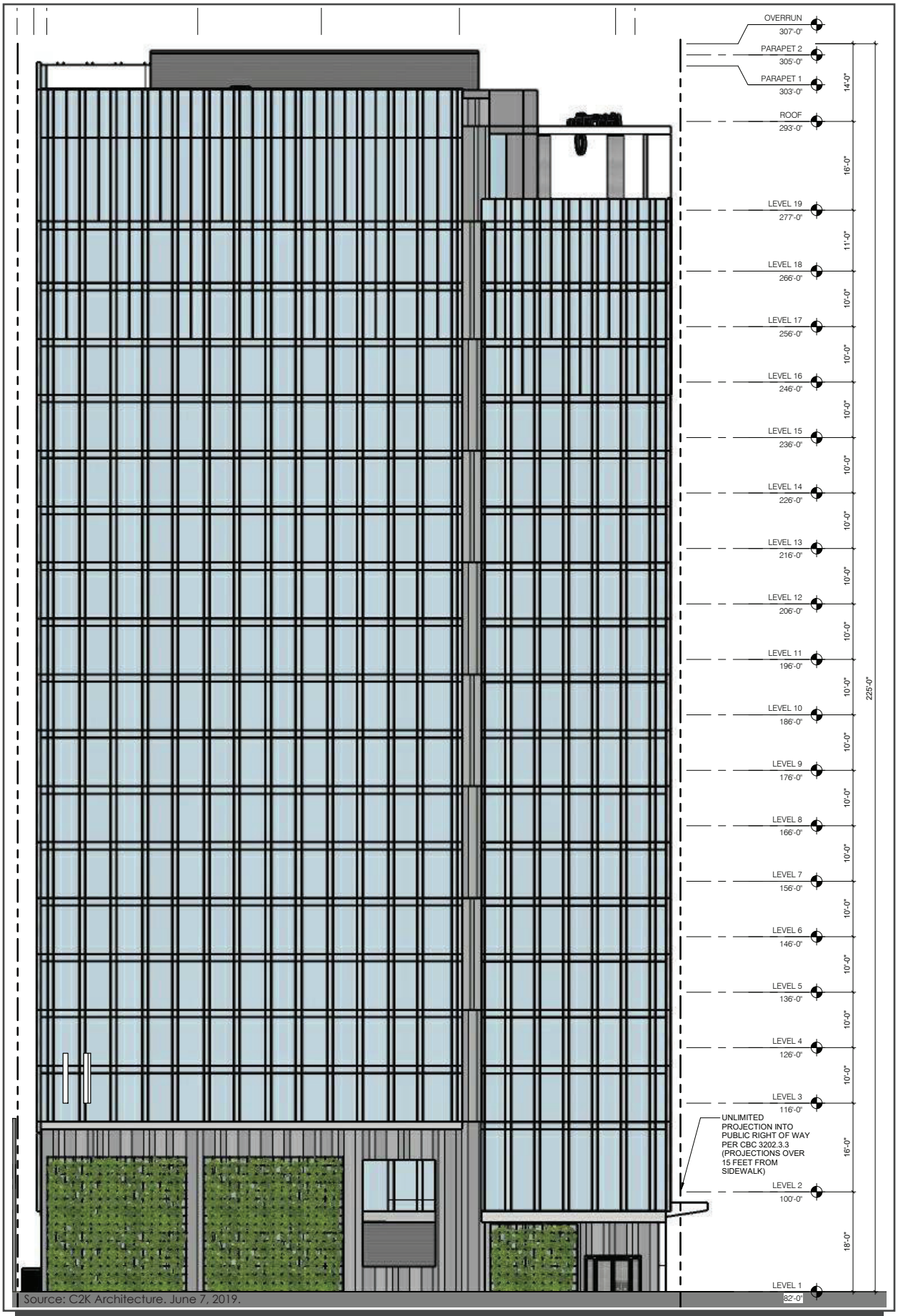
Source: C2K Architecture, June 7, 2019.

BUILDING ELEVATIONS (SOUTH) | FIGURE 3.0-4



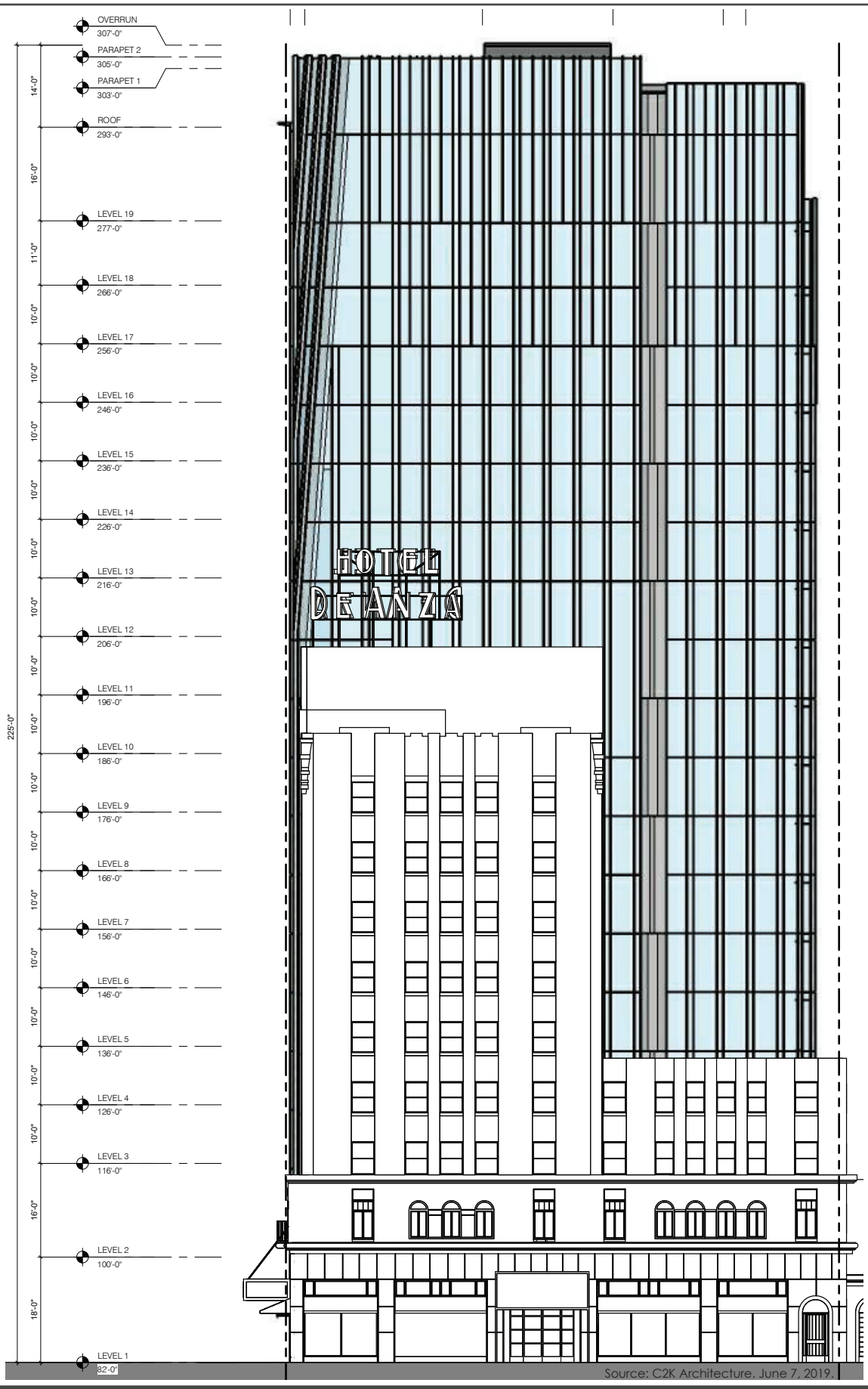
Source: C2K Architecture. June 7, 2019.

BUILDING ELEVATIONS (WEST) | FIGURE 3.0-5



Source: C2K Architecture, June 7, 2019.

BUILDING ELEVATIONS (NORTH) | FIGURE 3.0-6



Source: C2K Architecture. June 7, 2019.

BUILDING ELEVATIONS (EAST) | FIGURE 3.0-7

SECTION 4.0 ENVIRONMENTAL CHECKLIST AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise and Vibration
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

- **Environmental Checklist –** The environmental checklist, as recommended by CEQA, identifies environmental impacts that could occur if the proposed project is implemented. The right-hand column of the checklist lists the source(s) for the answer to each question. The sources are identified at the end of this section.
- **Impact Discussion** – This subsection discusses the project's impact as it relates to the environmental checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 *Applicable Plans, Policies, and Regulations*

State Scenic Highway Program

The State Scenic Highways Program was created by the California State Legislature in 1963 and is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no designated scenic highways in the vicinity of the project site and the project site is not visible from a designated scenic highway.

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to the proposed project.

Envision San José 2040 Relevant Aesthetics Policies	
Policies	**Description**
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-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
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 management 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-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
Policy CD-6.9	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, fostering active uses, and avoiding prominence of vehicular parking at the street level.
Policy CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
Policy CD-10.2	Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.
Policy CD-10.3	Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas

The Envision San José 2040 General Plan Final EIR (General Plan FEIR), as amended, found that the implementation of General Plan policies generally would avoid or substantially reduce impacts to natural scenic views from key gateways in the City.

Downtown Streetscape Master Plan

The Downtown Streetscape Master Plan aims to enrich the pedestrian experience in the Greater Downtown area and support existing and planned future developments. The Streetscape Master Plan defines an overall physical and visual image of the Greater Downtown area that can be achieved through a combination of high-quality materials, amenities, furnishings, and infrastructure. Implementation of the Plan ultimately helps improve pedestrian safety, walkability, and continuity.

In addition to General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Commercial Design Guidelines
- San José Downtown Design Guidelines

4.1.1.2 *Project Site*

The project site is currently developed with a surface parking lot and is bounded by the Axis residential tower to the north, Almaden Boulevard to the west, West Santa Clara Street to the south, and the De Anza Hotel to the east.

4.1.1.3 *Surrounding Visual Character*

The project site is surrounded by existing urban development and roadways. Adjacent commercial development includes multi-story office and hotel developments consisting primarily of glass and stucco facades (e.g. De Anza Hotel, Marriot, Comerica Bank etc.), and multi-story residential towers (e.g. Axis). The Axis residential tower is a modern steel-frame building with glass facades and a prominent rooftop terrace. The De Anza Hotel features vertical stucco piers, decorative bas-relief spandrel panels, an extensive fixed central awning, overall symmetry, a unique roof sign, vertical inset windows, and other historic design elements that provide a balanced and rich composition that embodies feelings of an Art-Deco commercial high-rise building of the 1930s. The side of the De Anza hotel facing the project site is painted with a large, colorful mural. A landscaped island between West Santa Clara Street and north/south lanes of Almaden Boulevard is located across West Santa Clara Street from the project site. The elevated State Route 87 overpass is located roughly 500 feet west of the site.

1. View of project site across Almaden Boulevard facing the De Anza Hotel.

2. View of project site from northwestern corner with West Santa Clara Street in background.

PHOTOS	1 & 2

3. View of project site from West Santa Clara facing Axis residential tower in background.

4. View of project site from West Santa Clara facing Almaden Boulevard.

PHOTOS	3 & 4

4.1.1.4 *Scenic Views*

The project site is currently used as a parking lot. The site does not provide scenic views of the Diablo foothills to the east or Santa Cruz Mountains to the west. The project area has been historically developed and there are no natural scenic resources such as trees or rock outcroppings present on the site or in the project area.

4.1.2 Impact Discussion

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

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

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the General Plan FEIR, SEIR, and Addenda thereto; and the Downtown Strategy 2040 FEIR. Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR, as supplemented, the proposed project would result in less than significant aesthetics impacts, as described below.

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

Impact AES-1:	The project would not have a substantial adverse effect on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

The site is not located along a state scenic highway or designated rural scenic corridor. Views of the project site at grade are limited to the immediate area. However, the elevated freeways in the area would provide views of the proposed hotel. SR 87 is approximately 500 feet away from the project site.

Based on the height of the proposed building, the building would be seen by drivers traveling on the elevated portion of SR 87 near the site. The project would not obstruct larger views of the Diablo foothills and Santa Cruz Mountains that are in the direct line-of-sight of drivers on the section of SR 87 west of the project site. The proposed building, although visible from SR-87, would contribute to the visual presence of the Downtown area, but would not substantially block scenic views or modify existing scenic resources.

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

Impact AES-2:	The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

The site is not located within sight distance of a state scenic highway. The only state scenic highway in Santa Clara County is Route 9, which runs from the Santa Cruz County line to the Los Gatos town limits, roughly 10 miles southwest of the site. Project implementation, therefore, would not damage scenic resources within a state scenic highway.

Impact AES-3:	The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings. The project would not conflict with applicable zoning and other regulations governing scenic quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project would construct a 19-story tower on a site currently consisting of a paved parking area. The tower would be visible from nearby roadways and surrounding properties. As outlined above, the proposed project is surrounded by a multitude of architectural styles. Nearby commercial development includes multi-story office and hotel developments consisting primarily of glass and stucco facades (e.g. De Anza Hotel, Marriot, Comerica Bank etc.), and multi-story residential towers (e.g. Axis). The Axis residential tower is a modern steel-frame building with glass facades and a prominent rooftop terrace. The project site is located adjacent to the De Anza Hotel, which is a historic building featuring vertical stucco piers, decorative bas-relief spandrel panels, an extensive fixed central awning, overall symmetry, a unique roof sign, vertical inset windows, and other historic design elements that provide a balanced and rich composition that embodies feelings of an Art-Deco commercial high-rise building of the 1930s. The proposed tower, consisting of steel-frame and glass façade architecture, would be similar in scale and appearance to other modern structures in the vicinity of the site and would add to the visual character of the downtown skyline.

A historic analysis completed for the project determined that the massing and aesthetics of the proposed tower would not adversely change the historic integrity or significance of the adjacent De Anza Hotel (refer to Section 3.1 Cultural Resources of the SEIR). Construction of the proposed hotel would, however, block views of the rooftop Hotel De Anza sign for persons traveling by car eastbound on Santa Clara Street. Views of the sign are currently blocked to persons traveling by car in the westbound direction due to existing buildings and partially to completed blocked in the eastbound direction at various points due to the palm trees along the roadway (between SR 87 and the project site) and State Route (SR) 87, which is elevated near the site. Pedestrian views vary but are most prominent from the south side of Santa Clara Street. While the project would further limit viewpoints of the roof sign for all eastbound automobile traffic and some eastbound pedestrian traffic, it would not substantially change the visual character of the area.

The project would alter the appearance of the area; however, implementation of adopted policies and existing regulations, including the City's Design Guidelines and the previously identified policies, would reduce the degradation of visual character or quality of the City to a less than significant level. Through the City's development review process, the proposed project would be evaluated for compliance with the adopted plans, policies and regulations outlined in the General Plan FEIR.

In addition, the project would be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy 2040 FEIR. Therefore, the proposed project would have a less than significant impact on the visual character of the City.

Impact AES-4:	The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **[Same Impact as Approved Project (Less than Significant Impact)]**

Existing ambient sources of nighttime lighting include neon and florescent signs, lighting of building exteriors for safety or architectural accents, lights within buildings that illuminate the exteriors of buildings through windows, landscape lights, street lighting, parking lot lighting, and vehicle headlights. Glare in the Greater Downtown is created by the reflection of sunlight and electric lights off of existing windows and building surfaces. The proposed project would go through design review, prior to issuance of building permits and would be reviewed for consistency with the City's Design Guidelines. The General Plan FEIR as amended, concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare; however, implementation of the General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts.

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Setting

4.2.1.1 *Agricultural Resources*

According to the Santa Clara County Important Farmland 2014 map, the project site is designated as *Urban and Built-Up Land*. *Urban and Built-Up Land* is defined as residential land with a density of at least six units per 10-acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment, and water control structures.

Currently, the project site is not used for agricultural purposes and is not the subject of a Williamson Act contract. The site is located within an urban area of San José and there are no properties used for agricultural purposes adjacent to the project site. The project site is a surface parking lot that is immediately surrounded by a residential tower to the north, a historic hotel to the east, and arterial roadways to the south and west.

4.2.1.2 *Forestry Resources*

The project site does not contain any forest land and no forest or timberland is located in the vicinity of the project site.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
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?	☐	☐	☐	☒	☐
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
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))?	☐	☐	☐	☒	☐
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

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

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

Impact AG-1:	The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. **[Same Impact as Approved Project (No Impact)]**

As discussed above, the project site is not designated as farmland or used for agricultural purposes. For these reasons, the proposed project would not result in any significant impacts to agricultural resources.

Impact AG-2:	The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. **[Same Impact as Approved Project (No Impact)]**

The project is not zoned for agricultural use or subject to a Williamson Act contract.

Impact AG-3:	The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **[Same Impact as Approved Project (No Impact)]**

None of the properties adjacent to the project site or in the vicinity are used or zoned for forestry and, therefore, the proposed project would not impact forest resources.

Impact AG-4:	The project would not result in a loss of forest land or conversion of forest land to non-forest use. **[Same Impact as Approved Project (No Impact)]**

None of the properties adjacent to the project site or in the vicinity are used or zoned for forestry and, therefore, the proposed project would not impact forest resources.

Impact AG-5:	The project would not 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. **[Same Impact as Approved Project (No Impact)]**

The project site is located in a dense urban downtown setting and would not result in conversion of farmland to non-agricultural use or forest land to non-forest use.

4.3 AIR QUALITY

The following discussion is based, in part, on a Construction Toxic Air Contaminant Analysis prepared by *Illingworth & Rodkin, Inc.* in July 2019. A copy of this report is attached as Appendix B to the SEIR.

4.3.1 Setting

4.3.1.1 *Applicable Plans, Policies, and Regulations*

Federal and State

Air Quality Overview

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

The federal CAA requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as "criteria pollutants"): particulate matter (PM), ground-level ozone (O_3), carbon monoxide (CO), sulfur oxides (SO_x), nitrogen oxides (NO_x), and lead (Pb). The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate.

These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NO_X). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. "Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not

the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide.

Toxic Air Contaminants and Fine Particulate Matter (Local Community Risks)

Besides criteria 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, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects.

TACs are primarily regulated through state and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. A chemical becomes a regulated TAC in California based on designation by the California Office of Environmental Health Hazard Assessment (OEHHA). Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and accounts for roughly 60 percent of the total cancer risk associated with TACs in the Bay Area. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[5]Other TACs found in urban air include lead, benzene and formaldehyde.

To address the issue of diesel emissions in the state, CARB developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the plan involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

Overlapped with what is considered as "criteria air pollutant" as described above, $PM_{2.5}$ is also a TAC composed of a complex mixture of substances that includes elements such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Common stationary sources of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common mobile source is motor vehicles on roadways and freeways. Unlike regional criteria pollutants, local risks associated with TACs and $PM_{2.5}$ are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

Bay Area Air Quality Management District

BAAQMD is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD has permit authority

[5] CARB. "Overview: Diesel Exhaust and Health". Accessed April 16, 2018. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and state air quality laws and regulations.

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan, Spare the Air, Cool the Climate* (2017 CAP). The 2017 CAP focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how the BAAQMD would continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

Sensitive Receptor

CARB and BAAQMD has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

The nearest sensitive receptors to the project site are the residences at the northern site boundary. There are additional residences north, east, and southeast of the project site at farther distances.

CEQA Air Quality Guidelines

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

Local

4.3.1.2 *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 air quality policies are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies	
Policy	**Description**
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.2	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-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.
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 minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
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.
Action MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.

In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies that reduce automobile travel through parking supply and pricing management.

4.3.1.3 *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 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 sensitive receptors such as 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.

4.3.1.4 *Significance Thresholds*

In 2009, BAAQMD published Proposed Thresholds of Significance. The CEQA Guidelines prepared by BAAQMD in 2011 used these significance criteria to evaluate the impacts caused by projects. BAAQMD's adoption of the 2011 thresholds was called into question by a trial court order issued March 5, 2012, in California Building Industry Association v. BAAQMD (Alameda Superior Court Case No. RGI0548693) that determined the adoption of the thresholds was a project under CEQA, but did not address the substantive validity, merits or scientific basis of the thresholds. The California Court of Appeal for the Fifth District reversed the trial court decision and the Court of Appeal's decision was appealed to the California Supreme Court. In a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] the California Supreme Court 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. The opinion did not negate the BAAQMD thresholds.

The issues in the California Building Industry Association v. BAAQMD lawsuit are not relevant to the scientific basis of BAAQMD's analysis of what levels of pollutants should be deemed significant. The City has determined that the scientific information in BAAQMD's proposed thresholds of significance analysis provides substantial evidence to support the thresholds and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Therefore, the thresholds and methodologies from BAAQMD's May 2011, now updated in May 2017, CEQA Air Quality Guidelines are appropriate for use in this analysis to determine whether there would be any project operational impacts in terms of criteria pollutants, toxic air contaminants and odors. Consistent with the certified Downtown Strategy 2040 FIER, these CEQA Air Quality thresholds are used to evaluate air quality impacts of the proposed project on the environment.

The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the Bay Area. The City of San José has carefully considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3- below.

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}/$PM_{2.5}$)	BMPs	None	None
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• 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/m^3 [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	• 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/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Sources: *BAAQMD* CEQA *Thresholds Options and Justification Report (2009)* and *BAAQMD CEQA Air Quality Guidelines* (dated May 2017).			

4.3.1.5 *Existing Conditions*

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the State and federal level. As previously mentioned, the Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM10), and fine particulate matter (PM2.5). As previously mentioned, the closest existing sensitive receptors to the project site are the residences at the northern site boundary.

There are nine stationary sources of air pollutants within 1,000 feet of the site (Plants #16674, #15556, #14177, #13528, #14687, #14713, #23706, #22398, and #21548). These sources are emergency generators associated with surrounding towers.

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐
2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☐	☒	☐
3) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

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

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

The BAAQMD CEQA *Air Quality Guidelines* set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) includes relevant control measures; and c) does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-2 below, the project would generally be consistent with the intent of the 2017 CAP measures intended to reduce automobile trips, as well as energy, water, and waste.

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as	The proposed site is located within proximity to Caltrain, Altamont Commuter Express (ACE), Amtrak, and Santa Clara Valley Transportation Authority (VTA) transit services (bus

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	service and light rail). The site is also in proximity to multiple Class I, II, and III bicycle facilities. In addition, the project would implement a Transportation Demand Management (TDM) program as part of the parking reduction requirements. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The existing pedestrian facilities would provide future hotel users with a safe connection between the project site and the surrounding land uses. The project would include 36 bicycle parking spaces, more than required by the Municipal Code. The project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action places and other local best practices.	The project site is located within close proximity to transit services and other amenities to encourage infill development, reduction of trips, and alternative mode of transportation to nearby services; therefore, the project is consistent with this measure (refer to *Section 4.16 Transportation* for more information).
Building Measures		
Green Buildings and Decrease Electricity Demands	Identify barriers to effective local implementation of CalGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with the City's Green Building Ordinance and the most recent California Building Code. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for	The project would be required to comply with the City's Green Building Ordinance and the most recent California Building Code which would increase building efficiency over standard construction. While the project would comply with the California Building Code requirements, there

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	is currently no specific proposals for cool roofs or cool paving. Therefore, the project is inconsistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

The project is consistent with most applicable transportation, building, natural and working lands, and waste management control measures identified in the table above and is consistent with the population projections in the 2017 CAP. The project would not result in a significant impact related to consistency with the 2017 CAP.

Impact AIR-2:	The project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Operational Criteria Pollutant Emissions

BAAQMD developed screening criteria to provide a conservative indication of whether a project would result in potentially significant criteria pollutant impacts. For operational impacts, the screening size for a hotel land use type is 489 rooms. The proposed project would result in the construction of a 272-room hotel, which would be below the BAAQMD threshold.

Although the 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 buildout of the Downtown Strategy 2040. When operating, the project may generate automobile traffic and infrequent truck traffic; however, these emissions are anticipated to result in low TAC or $PM_{2.5}$ exposure and were not evaluated as part of the air quality report prepared for the project. No stationary sources of TACs, such as generators, are proposed as part of the project. The hotel use would not introduce new sensitive receptors to the area.

Furthermore, the project is located in the downtown core in proximity to public transit and other services and amenities, has proposed reduced parking, is proposing more bicycle parking than required, and is an infill development within an urbanize area. The project would reduce vehicle mile travels and would provide an additional amenity to the area. Furthermore, the project would implement a TDM as part of the parking reduction requirement.

The project is part of the planned growth in the downtown area and would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR.

Construction Period Criteria Pollutant Emissions

Construction activities would temporarily affect local air quality for the proposed 18-month (approximately 390 workday) construction period. 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.

As described above, BAAQMD developed screening criteria to provide a conservative indication of whether a project would result in potentially significant criteria pollutant impacts. For construction impacts, the screening size for a hotel land use type is 554 rooms. The proposed project would result in the construction of a 272-room hotel, which would be below the BAAQMD threshold.

The emissions would be temporary and would be further reduced with the implementation of the General Plan policies and existing air quality and dust control regulation. Therefore, the proposed project would have a less than significant construction criteria pollutant emissions impact.

Impact AIR-3:	The project would not expose sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction Dust Emissions

Development allowed under the Downtown Strategy 2040 would generate dust that could affect local and regional air quality. 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. Construction activities on-site would include grading and trenching for the basement which would temporarily generate fugitive dust and other particulate matter in the project area. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils.

Consistent with the Downtown Strategy 2040 FEIR, the following measures for controlling dust and pollutant emissions would be implemented, as Standard Permit Conditions, during construction to reduce dust and other particulate matter in the area:

Standard Permit Conditions

During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. The contractor shall implement the following best management practices that are required of all projects:

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

With implementation of the project specific avoidance measures, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. The

Downtown Strategy 2040 FEIR concluded that construction emission impacts could be reduced to a less than significant level with the implementation of General Plan policies and existing regulations. In addition, these emissions would be temporary (full project construction is estimated to be approximately 18 months). Therefore, the proposed project would have a less than significant impact to regional and local air quality.

Community Risk Impacts – Construction Toxic Air Contaminants

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of DPM, organic TACs, and $PM_{2.5}$, which are regulated air pollutants. While the exhaust air pollutant emissions are not expected to contribute substantially to a decline in local or regional air quality conditions, construction exhaust emissions may still pose community health risks for nearby sensitive receptors. Construction of the proposed project would expose nearby sensitive receptors to TACs emitted during demolition, excavation, grading, and construction activities at the project site. A health risk assessment of the project construction activities was completed to evaluate potential health effects to nearby sensitive receptors from construction emissions of TACs. This assessment included dispersion modeling to predict the off-site and on-site concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated. It was determined that the maximally exposed individual (MEI) to potential health risks from construction activities is located in the adjacent residential tower to the north.

Table 4.3-3 shows the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indices for project related construction activities affecting the MEI. Table 4.3-3 shows only the impacts to the MEI from project construction activities, with the emissions compared to the BAAQMD single-source threshold for health risk impacts. As shown in Table 4.3-3, the project would result in exceedances of the BAAQMD thresholds for maximum cancer risks and $PM_{2.5}$ concentrations.

Table 4.3-3: Single-Source Impacts at Construction MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Unmitigated	**153.6 (infant)**	**0.90**	0.15
Mitigated	6.7 (infant)	0.08	0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>0.1***
Significant?			
Unmitigated	***Yes***	***Yes***	*No*
Mitigated	*No*	*No*	*No*

Mitigation Measures:

Consistent with the 2040 General Plan policies and the Downtown Strategy 2040 FEIR, in addition to the Standard Permit Conditions listed above and in conformance with General Plan policies MS-10.1 and MS-13.1, the project shall implement the following mitigation measures to reduce $PM_{2.5}$ emissions:

MM AIR-1.1: The project applicant shall ensure that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protect Agency (EPA) particulate matter emissions standards for Tier 4 engines. An alternative option would be equipment that meets Tier 3 engines that have California Air Resources Board (CARB) certified Level 3 Diesel Particulate Filters[6] or equivalent. Alternatively, the use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-1.2) which include specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, or building permits, whichever occur the earliest. Additionally, large stationary cranes shall be powered by electricity, and generators and welders using diesel fuel shall be limited to 200 hours over the entire construction period.

MM AIR-1.2: Prior to the issuance of any demolition, grading, and/or building permits, whichever occurs earliest, the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the City's Director of Planning or Director's designee for review and approval. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.

Implementation of MM AIR 1-1 and 1-2, as well as the Standard Permit Conditions listed above and consistent with General Plan Policies MS-10.1 and MS-13.1, would reduce the infant residential cancer risk to 6.7 per one million or less and the maximum $PM_{2.5}$ concentration would be 0.08 $\mu g/m^3$, which would be below the BAAQMD significance threshold of 10 in one million for cancer risk and the maximum $PM_{2.5}$ concentration of 0.3 $\mu g/m^3$.

Consistent with the Downtown Strategy 2040 FEIR, the project has completed a project-level analysis and has identified appropriate measures and conditions to reduce potential impacts during operations and constructions in accordance with BAAQMD and City requirements and GP Policy MS-11.1. Consistent with the Downtown Strategy 2040 FEIR, the language of the measures above have been revised for clarity, but the intent and purpose of the measures are consistent with the certified Downtown Strategy 2040 FEIR. Therefore, the proposed project would reduce community risk impacts from construction to less than significant.

Community Risk Impacts – Operational Toxic Air Contaminants

The project proposes both an emergency generator and a fire pump that would require up to 50 hours of operation annually per unit for testing and maintenance. The emissions of these units were calculated to determine the potential cancer risk and PM2.5 to off-site receptors. Pollutant concentrations were modeled assuming that generator and fire pump testing could occur at any time between 7:00 AM and 7:00 PM, consistent with City Code Section 20.80.2030.

[6] California Air Resources Board. Verification Procedure – Currently Verified. Available at: http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm. Accessed on October 2, 2018.

The analysis found that the $PM_{2.5}$ and DPM concentrations would be 0.00686 µg/m^3. This would equate to a maximum cancer risk of 5.14 in one million and a maximum hazard index of less than 0.001 for project operation MEI. The operation MEI would be the same as the construction MEI. The project would result in exceedances of the BAAQMD thresholds for maximum cancer risks and $PM_{2.5}$ concentrations.

Community Risk Impacts – Cumulative Toxic Air Contaminants

Table 4.3-5 shows the cumulative impacts of project operation and nearby sources of TACs within the 1,000-foot zone of influence.

Table 4.3-5: Cumulate Impacts at Operation MEI

Source	Maximum Cancer Risk (per million)	$PM_{2.5}$ Concentration (µg/m^3)	Hazard Index
Project Construction - Unmitigated	153.6	0.90	0.15
Project Construction – Mitigated	6.7	0.08	0.01
Project Emergency Diesel Generator and Fire Pump	2.8	0.01	<0.01
S.R. 87 - Link 535 (20ft elevation) at 400 feet	8.2	0.08	<0.01
W. Santa Clara Street at 200 feet, 22,870 ADT	3.6	0.10	<0.03
Plant #16674 (Diesel Generator) at 400 feet	6.1	<0.01	0.01
Plant #15556 (Diesel Generator) at 280 feet	<0.1	<0.01	<0.01
Plant #14177 (Diesel Generator) at 1000 feet	0.7	<0.01	<0.01
Plant #13528 (Diesel Generator) at 850 feet	12.7	0.01	0.02
Plant #14687 (Diesel Generator) at 500 feet	0.7	<0.01	<0.01
Plant #14713 (Diesel Generator) at 570 feet	1.4	<0.01	<0.01
Plant #23706 (Diesel Generator) at 60 feet	0.8	<0.01	<0.01
Plant #22398 (Diesel Generator) at 270 feet	3.5	<0.01	<0.01
Plant #21548 (Diesel Generator) at 340 feet	12.7	<0.01	0.02
Combined Sources Unmitigated	204.6	1.18	0.31
Combined Sources Mitigated	60.0	0.36	0.17
BAAQMD Cumulative Source Threshold	***>100***	***>0.8***	***>10.0***
Significant with Mitigation?	*No*	*No*	*No*

When taking into account the emissions of TACs from construction and operation of the project and nearby sources, as well as Mitigation Measures AIR-1.1 and AIR-1.2, the proposed project would not result in exceedances of the BAAQMD thresholds for maximum cancer risks and $PM_{2.5}$ concentrations. Therefore, construction and operational activities associated with the proposed project would not expose residences near the project site to TAC emissions in excess of acceptable thresholds.

Carbon Monoxide

Carbon monoxide emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high-localized concentrations of carbon monoxide. BAAQMD has established screening criteria for localized carbon monoxide impacts that determines a project would have a less than significant impact if:

1. The project is consistent with an applicable congestion management program established by the county's congestion management agency for designated roads or highways, regional transportation plans, and local congestion management agency plans.

2. The project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.

3. The project would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

According to the traffic analysis prepared by *Hexagon Transportation Consultants, Inc.*, the proposed project would generate an additional 2,152 daily vehicle trips, with 121 occurring during the AM peak hour and 155 occurring during the PM peak hour. The increase in traffic trips resulting from the project is not sufficient to increase traffic volumes at local intersections to more than 44,000 vehicles per hour, nor would the project increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is limited. Furthermore, the project is consistent with applicable congestion management programs. Therefore, the proposed project would not result in significant impacts related to carbon monoxide emissions.

Impact AIR-4:	The project would not result in substantial emissions (such as odors) adversely affecting a substantial number of people. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and with the implementation of the standard permit conditions and mitigation measures identified above, the project would further reduce odor generation during the construction period.

4.4 BIOLOGICAL RESOURCES

4.4.1 Setting

4.4.1.1 *Applicable Plans, Policies, and Regulations*

Special-Status Species

Special-status species include plants or animals that are listed as threatened or endangered under the federal and/or California Endangered Species Act (FESA/CESA), species identified by the California Department of Fish and Wildlife (CDFW) as a California Species of Special Concern, as well as plants identified by the California Native Plant Society (CNPS) as rare, threatened, or endangered. The FESA and CESA protect listed wildlife species from harm or "take," which can include habitat modification or degradation that directly results in death or injury to a listed wildlife species. The majority of the Downtown area is paved, with some small pockets of vegetated or bare ground. Mature native and ornamental trees are scattered throughout the Downtown area, particularly along streets and within parking lots. Developed habitats typically support common wildlife species that are tolerant of periodic human disturbance such as Rock Dove, squirrel, and raccoon.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA: 16 USC Section 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, bird nests, and eggs. Construction disturbance during the breeding season could result in a violation of the MBTA such as the incidental loss of fertile eggs or nestlings, or nest abandonment. As stated in the Downtown Strategy 2040 FEIR, native bird species commonly found in developed habitats in San José include the house finch, northern mockingbird, Anna's hummingbird, and California towhee. San José is also located along the Pacific Flyway for migratory birds.

California Fish and Game Code

The California Fish and Game Code includes regulations governing the use of, or impacts on, many of the state's fish, wildlife, and sensitive habitats. Certain sections of the Fish and Game Code describe regulations that pertain to certain wildlife species. Fish and Game Code Sections 3503, 2513, and 3800 (and other sections and subsections) protect native birds, including their nests and eggs, from all forms of take. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by CDFW.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was adopted by City Council in 2013, and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating

planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

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 biological resources policies are applicable to the proposed project.

Envision San José 2040 Relevant Biological Resource Policies	
Policy	**Description**
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 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.
Policy MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: • Avoid conflicts with nearby power lines. • Avoid potential conflicts between tree roots and developed areas. • Avoid use of invasive, non-native trees. • Remove existing invasive, non-native trees. • Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. • Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best

	maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

4.4.1.2 *Existing Conditions*

The project site is located in a developed urban area of Downtown San José. The project site is developed as a parking lot and surrounding by a hotel, residential tower, and office buildings across West Santa Clara Street and Almaden Boulevard. There is no landscaping or trees on the project site, however, there are five palm trees along the West Santa Clara street frontage. There are no creeks or rivers located on or adjacent to the site.

The project site is located within the Habitat Plan study area and is designated as "Urban-Suburban" land. "Urban-Suburban" land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres.

Habitats in developed urban areas are relatively low in species diversity. Species that use this habitat are urban adapted birds, such as Rock Dove, Mourning Dove, House Sparrow, Scrub Jay, and Starling. Based upon the lack of habitat on site, no special-status plant or animal species are present.

4.4.2 **Impact Discussion**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
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 (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐
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 CDFW or USFWS?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR, SEIR, and Addenda thereto, the proposed project would result in less than significant biological resources impacts, as described below.

4.4.3 Impact Discussion

Impact BIO-1:	The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently a parking lot, devoid of vegetation. The site is not suitable for identified candidate, sensitive, or special-status species. The proposed project would have no impact on candidate, sensitive, or-special status species.

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently a parking lot, devoid of vegetation. There are not watercourses or riparian habitat on-site, and the site is not suitable for identified candidate, sensitive, or special-status species. The proposed project would have no impact on riparian habitat or other sensitive natural communities.

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently a parking lot, devoid of vegetation. There are not watercourses or wetlands on the site. The proposed project would have no impact on wetlands.

Impact BIO-4:	The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **[Same Impact as Approved Project (Less than Significant Impact With Mitigation)]**

Impacts to Nesting Migratory Birds

While the project site is located within an urban environment, the trees located adjacent to the site could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under provisions of the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment in trees located adjacent to the site.

Mitigation Measures:

In conformance with the Downtown Strategy 2040 FEIR, and General Plan FEIR (as amended) and current City practice, the following mitigation measures shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests:

MM BIO-4.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive. If tree removals and construction cannot be scheduled outside of

nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, construction activities, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning or Director's designee.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors would be less than significant.

Impact BIO-5:	The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently a parking lot, devoid of vegetation. The project would not conflict with local policies or ordinances protecting biological resources.

Impact BIO-6:	The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located on a parcel identified as *Urban-Suburban* in the Santa Clara Valley Habitat Plan (SCVHP). Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition:

Standard Permit Condition

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the

Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) for review and shall complete subsequent forms, reports, and/or studies as needed prior to the issuance of grading permits. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP.

4.5 CULTURAL RESOURCES

The project's impacts to cultural resources is evaluated in the SEIR for the proposed project (refer to Section 3.1 of the SEIR). No further analysis is provided in this Initial Study.

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

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

State

Renewables Portfolio Standard Program

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

Pacific Gas and Electric Company (PG&E's) is the electricity provider to the project site. PG&E's 2017 electricity mix was 33 percent renewable; thus, they have already met the requirements of Executive Order S-14-08.[7]

Building Codes

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.[8] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[9]

The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went in to effect on January 1, 2017, and covers five categories: planning and design,

[7] PG&E. "Exploring Clean Energy Solutions". Accessed February 6, 2019. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.
[8] California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed February 6, 2019. http://www.bsc.ca.gov/.
[9] California Energy Commission (CEC). "2016 Building Energy Efficiency Standards". Accessed February 6, 2019. http://www.energy.ca.gov/title24/2016standards/index.html.

energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

City of San José

Climate Smart San José

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

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

Sustainable City Strategy

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

Municipal Code

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

Envision San José 2040 General Plan

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

General Plan Policies - Energy	
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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 or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
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, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-18.5	Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
Policy MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
Policy MS-18.7	Use the 2008 Water Conservation Plan as the data source to determine San José's baseline water conservation savings level.
Policy IN-2.1	Utilize the City's Infrastructure Management System Program to identify the most efficient use of available resources to maintain its infrastructure and minimize the need to replace it.
Policy IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.

General Plan Policies - Energy	
Policy VN-1.1	Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
Policy TR-1.4[10]	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
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.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,830 trillion Btu in the year 2016, the most recent year for which this data was available. Out of the 50 states, California is ranked 2nd in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,853 trillion Btu) for industrial uses, and 40 percent (3,116 trillion Btu) for transportation.[11] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2016 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2016, a total of approximately 16,800 GWh of electricity was consumed in Santa Clara County.[12]

San José Clean Energy is the electricity generation service provider for residents and businesses in the City of San José. Beginning in February 2019, it will provide over 300,000 residential and commercial electricity customers with carbon-free electricity options at competitive prices, from sources like solar, wine, and hydropower.

Pacific Gas and Electric Company (PG&E) is the City of San José energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2017, natural gas facilities provided 20 percent of PG&E's electricity delivered to retail

[10] Policy TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.
[11] United States Energy Information Administration. *State Profile and Energy Estimates, 2016.* Accessed September 6, 2018. https://www.eia.gov/state/?sid=CA#tabs-2.
[12] CEC. Energy Consumption Data Management System. "Electricity Consumption by County". Accessed September 6, 2018. http://ecdms.energy.ca.gov/elecbycounty.aspx.

customers; nuclear plants provided 27 percent; hydroelectric operations provided 18 percent; renewable energy facilities including solar, geothermal, and biomass provided 33 percent; and two percent was unspecified.[13]

Natural Gas

PG&E provides natural gas services within the City of San José. In 2017, approximately 10 percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.[14] In 2016, residential and commercial customers in California used 29 percent, power plants used 32 percent, and the industrial sector used 37 percent. Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[15]

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.[16] The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970's to 22 mpg in 2016.[17] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks Model Years 2011 through 2020.[18,19] In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.[20]

[13] PG&E. "Exploring Clean Energy Solutions". Accessed September 18, 2018. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.
[14] California Gas and Electric Utilities. 2017 California Gas Report. Accessed February 16, 2019. https://www.socalgas.com/regulatory/documents/cgr/2017_California_Gas_Report_Supplement_63017.pdf
[15] CEC. "Natural Gas Consumption by County". Accessed February 16, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[16] California Department of Tax and Fee Administration. Net Taxable Gasoline Gallons. Accessed February 16, 2019. http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.
[17] U.S. EPA. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed August February 16, 2019. https://www.bts.gov/content/average-fuel-efficiency-us-light-duty-vehicles.
[18] U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 16, 2019. http://www.afdc.energy.gov/laws/eisa.
[19] Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed February 16, 2019. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.
[20] National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards.* August 28, 2012. Accessed February 16, 2019. http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards.

4.6.2 Impact Discussion

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

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

Impact EN-1:	The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation. **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction

Construction of the project would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The anticipated construction schedule assumes that the project would be built out over a period of approximately 18 months. The project would require grading, excavation, and site preparation for construction of the proposed building. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BMPs detailed in Section 4.3 Air Quality would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below). There would be unavoidable adverse effects caused by construction because the use of fuels and building materials are fundamental to construction of new buildings. With implementation of the air quality-related BMPs, the energy impacts of construction and unavoidable effects of development would be less than significant.

Operation

Operation of the proposed building would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Table 3.2-2 summarizes the estimated energy use of the proposed project. It should be noted that the estimates in the table are based on a 330-room hotel building, and thus represent a conservative estimate of the project's energy demand.

Table 4.18-1: Projected Annual Energy Use of Proposed Project

Development	Electricity Use (kWh/yr)	Natural Gas Use (therms/yr)
Hotel	1,695,000	14,800

Source: Nathan Miller, Personal Communication. C2K Architecture. September 17, 2018.

According to the Downtown Strategy 2040 FEIR, planned growth could substantially increase the demand for electricity and natural gas. Under the City's Green Building program, Climate Smart San José, and Greenhouse Gas Reduction Strategy, new development will be required to design for energy efficiency and conservation. Regulations that promote water conservation and recycling would also reduce energy demand associated with the built environment. Increased energy efficiency that lowers overall demand, including peak energy demands in the built environment, is also anticipated as a result of new technologies and energy efficiency requirements and incentives at the national, state, and local level. The City ultimately intends to require all new residential and commercial construction to be designed for zero net energy use, as regulations are revised and technological advances make it feasible (Policy MS-14.3). The Downtown Strategy 2040 FEIR determined that implementation of 2040 General Plan policies and existing regulations would reduce energy consumption associated with the built environment such that new development, including the proposed project, would not consume energy in a manner that is wasteful, inefficient, or unnecessary during project operation.

The proposed project would result in a net increase of approximately 2,152 total daily traffic trips.[21] The total annual VMT for the project is approximately 8,640,280 miles, assuming that the average trip length in Santa Clara County is 11 miles.[22] Using U.S. EPA's estimated average fuel economy of 23.2 miles per gallon (mpg), the project would result in the consumption of approximately 372,426 gallons of gasoline per year.[23,24] The project would be required to implement a Transportation Demand and Parking Management Plan and 2040 General Plan policies intended to reduce VMT per capita and support transportation alternatives. The proposed project would not provide parking on-site, which would disincentivize hotel patrons to drive to the hotel. Parking for hotel patrons would be provided off-site via a valet service. The project is in close proximity to major transit services

[21] Hexagon Transportation Consultants, Inc. *270 West Santa Clara Street Hotel Development Traffic Operations Analysis.* August 20, 2018. Based on 330 rooms. The project proposes 272 rooms.
[22] Association of Bay Area Governments. *Plan Bay Area*. Table 2.1-5. Accessed September 25, 2018. http://2040.planbayarea.org/sites/default/files/2017-07/PBA%202040%20DEIR_0_1.pdf.
[23] 2,152 daily trips (365 days) = 785,480 yearly trips (11 miles) = 8,640,280 VMT/23.2 mpg = 372,426 gallons of gasoline annually.
[24] It should be noted that, due to the project's location in the downtown area near transit and the nature of the proposed land use (i.e., hotel), the average length of trips associated with the project is likely to be less than 11 miles. As a result, this calculation likely overestimates the total VMT resulting from the project.

located along the surrounding roadways and within walking distance of Diridon Station. The project is consistent with planned growth in the General Plan and Downtown Strategy 2040. Therefore, the project would not result in a new or more significant impact related to energy use associated with transportation.

Impact EN-2:	The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project is a part of capacity build-out that is expected under the Downtown Strategy 2040. The project would be required to conform to General Plan policies and regulations which promote the use and expansion of renewable energy resources, including solar voltaic, solar hot water, wind, and biogas or biofuels. By conforming to applicable General Plan policies related to renewable energy and energy efficiency, and the Green Building Ordinance, the project would not preclude the City from meeting local or state renewable energy or energy efficiency goals.

4.7 GEOLOGY AND SOILS

The following discussion is based, in part, on a Geotechnical Investigation prepared by *Treadwell & Rollo* in July 2003. A copy of the report is attached as Appendix D the SEIR.

4.7.1 Setting

4.7.1.1 *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.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed by the California legislature in 1990 to protect the public from the effects of strong ground shaking, liquefaction, landslides, and other seismic hazards. The SHMA established a State-wide mapping program to identify areas subject to violent shaking and ground failure; the program is intended to assist cities and counties in protecting public health and safety. The California Geological Survey (CGS) is mapping SHMA Zones and has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, ground shaking, and landslides, which include the central San Francisco Bay Area and Los Angeles Basin.

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; the current version is the 2016 Building Standards Code.

Paleontological Resources Regulations

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

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2007 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Geology and Soils Policies	
Policy	**Description**
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
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 a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Envision San José 2040 Relevant Geology and Soils Policies	
Policy	**Description**
Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.3	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.

4.7.1.2 *Existing Conditions*

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.

Soils and Groundwater

The project site is underlain by approximately 18 feet of fill soils. The fill soils are underlain by interbedded layers of clay, sand, and gravel. The clays and sand generally become stiffer and denser, respectively, with depth. The native clay in the upper 20 to 30 feet is generally soft and compressible.[25]

Groundwater on the project site was encountered during subsurface borings at approximately 15-20 feet below ground surface (bgs).

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 a City of San José Fault Hazard Zone. In addition, no known surface expression of active faults are believed to cross the site and fault rupture hazard is not a significant geologic hazard at the site.

[25] Treadwell & Rollo. *Geotechnical Review. Residential Project Adjacent to the DeAnza Hotel.* July 17, 2005.

Three northwest-trending major earthquake faults that are responsible for the majority of movement on the San Andreas fault system extend through the Bay Area. They include the San Andreas fault (19 miles southwest of the site), the southeast extension of the Hayward fault (14.9 miles northeast of the site), and the Calaveras fault (13.7 miles northeast of the site).

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 State of California Liquefaction Hazard Zone.[26] The adjacent site (Axis residential tower) was evaluated to assess liquefaction potential and the effects liquefaction may have on the proposed development.[27] The total settlement of liquefiable soils was estimated to be one-inch during a design level seismic event.

Landslides

The project site is relatively flat and, therefore, the probability of landsliding occurring at the site during a seismic event is low.

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐

[26] California Geological Survey. *Seismic Hazard Zones, San José West Quadrangle.* February 2002.
[27] Treadwell & Rollo. *Geotechnical Review. Residential Project Adjacent to the DeAnza Hotel.* July 17, 2005.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant geology and soils impact, as described below.

4.7.3 Impact Discussion

Impact GEO-1: The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. **[Same Impact as Approved Project (Less than Significant Impact)]**

As previously discussed, the project site is located in a seismically active region and, therefore, strong ground shaking would be expected during the lifetime of the proposed project. While no active faults are known to cross the project site, ground shaking on the site could damage the proposed building. Seismically induced liquefaction and differential settlement could result in differential movement of one inch on the site.

The project would not be subject to impacts from other seismic-related hazards including lateral spreading, slope instability, or landslides due to the flat topography of the site.

The proposed project would be subject to significant seismic ground shaking with the potential to result in liquefaction and differential settlement. The project would be in conformance with the Downtown Strategy 2040 FEIR and current standard practices in the City of San José and therefore, would have a less than significant seismic hazard impact.

Impact GEO-2:	The project would not result in substantial erosion or the loss of topsoil **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is flat and developed with 100 percent impervious surfaces. Ground disturbance would be required for removal of the existing pavement, grading, trenching, excavation, 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. General Plan Action EC-4.5 requires an Erosion Control Plan for private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. The proposed project would disturb approximately 0.20 acres of land on-site, and it is not located in a hillside area or adjacent to any creek or river. The project would not meet the criteria required for an Erosion Control Plan. Nonetheless, potential construction-related erosion will be managed by the application of erosion control measures outlined in the Downtown Strategy 2040 FEIR.

Standard Permit Conditions: The following standard measures include best management practices and erosion control measures to reduce and avoid construction-related erosion impacts from new development in the downtown area:

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

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. Furthermore, because the project would comply with the regulations identified in the Downtown Strategy 2040 FEIR such as implementation of the standard permit conditions above, the proposed project would have a less than significant soil erosion impact.

Impact GEO-3:	The project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. **[Same Impact as Approved Project (Less than Significant Impact)]**

Strong shaking during an earthquake can result in ground failure such as that associated with soil liquefaction and differential compaction. As described above, the primary soil considerations on the project site are the presence of fill which may densify during a major seismic event which could

damage the proposed hotel building. The proposed project would not be exposed to substantial slope instability, erosion, or landslide-related hazards based on the soils present on the site.

As discussed in the Downtown Strategy 2040 FEIR, differential settlements, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if the nature of the fill and expansive soils are not considered during project design and construction. Fill, expansive soils and differential settlement could result in structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines.

In conformance with the certified Downtown Strategy 2040 FEIR and current standard practices in the City of San José, the project proposes to implement the following, previously approved mitigation measure to reduce significant soil impacts to a less than significant level:

Standard Permit Conditions

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

Conformance with the above Standard Permit Condition would substantially reduce adverse effects on proposed improvements associated with soil conditions on the site.

Impact GEO-4:	The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project would be built and maintained in accordance with a site-specific geotechnical report (as required by the Downtown Strategy 2040 FEIR and City policy) and applicable regulations including the most recent California Building Code requirements which contains the regulations that govern the construction of structures in California. The site-specific geotechnical report shall evaluate the consolidation properties of the underlying sediments to determine the potential for settlements associated with dewatering (if necessary) and other potential earth movements.

Impact GEO-5:	The project would not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water. **[Same Impact as Approved Project (Less than Significant Impact)]**

The disposal of wastewater from the project site would be facilitated by connection to the City's existing sewer system. No on-site septic system would be constructed for the proposed project. By

connecting to existing City sewer lines the proposed project would avoid potential impacts related to wastewater disposal via an on-site septic system or alternative wastewater disposal system.

Impact GEO-6:	The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **[Same Impact as Approved Project (Less than Significant Impact)]**

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils; however, mammoth remains were found along the nearby Guadalupe River in San José in 2005. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The proposed project could potentially disturb undiscovered paleontological resources underlying the project site during excavation, grading and construction activities. Consistent with the Downtown Strategy 2040 FEIR, the following Standard Permit Conditions would be applied to the proposed project to reduce and avoid impacts to as yet unidentified paleontological resources.

Standard Permit Conditions:

- **Provide Preconstruction Worker Awareness Training.** The City 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, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The City will be responsible for ensuring that the project sponsor implements the recommendations of the paleontological monitor regarding treatment and reporting. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

  Consistent with the Downtown Strategy 2040 FEIR, implementation of the Standard Permit Conditions discussed above would reduce impacts to paleontological resources to a less than significant level.

4.7.4 Project Geology Issues Not Covered Under CEQA

On December 17, 2015, the California Supreme Court issued an opinion in CBIA vs. BAAQMD holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users 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 discussed below.

The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environment effects resulting from planned development within the City. The soils on-site have moderate to very high expansion potential.[28] The project site is located within a liquefaction zone and would experience very strong ground shaking during an earthquake.

Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Pursuant to the Downtown Strategy 2040 FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[29] shall be prepared and submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code and all City policies and ordinances. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

The proposed project would be built and maintained in accordance with applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California. The General Plan FEIR (as amended) concluded that adherence to the California Building Code would reduce seismic related impacts and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous site conditions.

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

[28] USGS. Web Soil Survey. *Custom Soil Resource Report for Santa Clara Area, California, Western Part.* October 2, 2018.

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

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Setting

4.8.1.1 *Background Information*

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

4.8.1.2 *Applicable Plans, Policies, and Regulations*

California Assembly Bill 32 and Executive Order S-3-05

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

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

In December 2008, California Air Resources Board (CARB) 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. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 greenhouse gas reduction goal. The First Update to the Scoping Plan was approved on May 22, 2014 and builds upon the Scoping Plan with new strategies and recommendations. The first update defines CARB's priorities over the next five years and lays the groundwork to reach long-term goals set forth in Executive Order S-3-05.

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.[11] The four major requirements of SB 375 are:

- Metropolitan Planning Organizations (MPOs) must meet greenhouse gas emission reduction targets for automobiles and light trucks through land use and transportation strategies.
- MPOs must create a Sustainable Communities Strategy (SCS), to provide an integrated land use/transportation plan for meeting regional targets, consistent with the RTP.
- 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.
- MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the California Transportation Commission (CTC).

Consistent with the requirements of SB 375, the MTC partnered with the Association of Bay Area Governments (ABG), 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. The SCS is referred to as *Plan Bay Area*.

MTC and ABAG adopted Plan Bay Area in July 2013 and the California Air Resources Board accepted the technical evaluation of the SCS in April 2014. The strategies in the plan are 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 project site is located within a PDA.

Executive Order B-30-15

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

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

This Executive Order also calls for the California Natural Resources Agency to update the State of California's climate adaption strategy, *Safeguarding California*, every three years. The Safeguarding

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

2017 Bay Area Clean Air Plan

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

BAAQMD CEQA Guidelines

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

In jurisdictions where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative greenhouse gas emission impacts to a less than significant level.[30] The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

City of San José Municipal

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

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

[30] 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 2017).

Envision San José 2040 General Plan

The 2040 General Plan includes strategies, policies, and action items that are incorporated in the City's Greenhouse Gas (GHG) Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies a series of GHG emissions reduction measures to be implemented by development projects that would allow the City to achieve its GHG reduction goals. The City of San José approved a Supplemental Program EIR for the Envision San José General Plan to include and update the greenhouse gas emissions analysis in December 2015. Multiple policies and actions in the 2040 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 the recent 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 environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR (as supplemented). Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO2e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO2e per year would be required for the projected service population to meet the City's target for 2035.[31]

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015 alone. The General Plan FEIR (as supplemented) disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental FEIR to the General Plan FEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are

[31] As described in 2040 General Plan EIR, the 2035 efficiency target above reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO2e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050.

identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

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

Envision San José 2040 Relevant GHG Emissions Policies	
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat

Envision San José 2040 Relevant GHG Emissions Policies	
	reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
Policy TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

4.8.1.3 *Existing On-Site GHG Emissions*

The proposed project is currently developed as a private parking lot with limited use. GHGs generated by the site's current use are generated from vehicles traveling to and from the site.

4.8.2 Impact Discussion

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

Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would result in a less than significant GHG emissions impacts under 2030 conditions, but would contribute to a significant unavoidable impact under 2040 conditions, as described below.

Impact Thresholds

The BAAQMD's CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified GHG reductions plan (i.e., a Climate Action Plan). The plan has to address emissions associated with the period that the project would operate (e.g., beyond year 2020). For quantified emissions, the guidelines recommended a GHG threshold of 1,100 metric tons or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a "Substantial Progress" efficiency metric of 2.6 MT CO_2e/year/service population. This service population threshold is calculated for 2030 based

on the GHG reduction goals of EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.[32]

Impact GHG-1:	The project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Construction

Short-term GHG emissions from the construction phase of the project would consist of on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. The air quality assessment for the proposed project calculated emissions associated with project construction to be 386 MT of CO_2e for the total construction period. BAAQMD recommends the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the project include, but are not limited to using local building materials of at least 10 percent and recycling or reusing at least 50 percent of construction waste or demolition materials. Because construction would be temporary and would not result in a permanent increase in emissions, the project would not result in a significant GHG impact from construction emissions.

Operation

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions.

The BAAQMD GHG thresholds include a specific plan- and project-level GHG emission bright-line threshold of 1,100 MT of CO_2e or 4.6 MT of CO_2e per service population (residents and workers) per year for projects to achieve the 2020 AB 32 statewide targets. Given that the project and buildout of the Downtown Strategy 2040 would not be constructed and operational prior to December 31, 2020, the City has developed updated GHG emissions targets reflecting statewide goals beyond 2020. GHG emissions resulting from the Downtown Strategy 2040 buildout, a portion of which is represented by the project, were compared to a threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, the "Substantial Progress" bright line threshold of 660 of 2.6 MT CO_2e/year/service population was used. This is calculated for 2030 based on the GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.[33]

[32] Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April 2016.
[33] Association of Environmental Professionals. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. October 2016.

Based on the Downtown Strategy 2040 FEIR, full build-out of the Downtown Strategy 2040 Plan would result in annual emissions of 2.09 MT of CO_2e/service population which would not exceed the 2030 "Substantial Progress" threshold of 2.6 MT CO_2e/service population annually. Development from full build-out in 2040 would be 2.21 MT of CO_2e/service population annually, exceeding the 2040 "Substantial Progress" threshold of 1.7 MT of CO_2e/service population annually, resulting in a significant unavoidable GHG impact. While 2030 emissions would be below the substantial progress threshold, the project includes TDM measures to further reduce overall emissions generated by the project. These measures include VTA SmartPasses for employees, an on-site TDM coordinator, and financial incentives to employees to not park in designated off-site parking.

As detailed in the Downtown Strategy 2040 FEIR, operational emissions from the Downtown Strategy 2040, including the proposed development, would meet the 2030 threshold, but would not meet the 2040 threshold.

Impact GHG-2:	The project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

2017 Clean Air Plan

The Downtown Strategy 2040 supports the goals of the 2017 Clean Air Plan through incorporation of the following:

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

The proposed project would construct a hotel in close proximity to multimodal facilities, incorporate a TDM program, and comply with Title 24 and the California Green Building Standards Code. The project, therefore, would not conflict with the applicable control measures in the 2017 CAP.

Envision San José 2040 General Plan

The proposed project is consistent with the 2040 General Plan policies to reduce GHG emissions by facilitating development near existing multimodal facilities, incorporating green building practices, providing bike parking, and developing a TDM program to reduce VMT.

Consistency with the San José Greenhouse Gas Reduction Strategy

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. While construction and operation of this project would not be completed prior to 2020, in this interim, the proposed project was evaluated for consistency with the City's GHG Reduction Strategy.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. 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.

Since the project is consistent with the General Plan land use designations for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the GHG Reduction Strategy.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10);
2. Implementation of Green Building Measures (General Plan Goals MS-1, MS-14)
    a. Solar site orientation
    b. Site design
    c. Architectural design
    d. Construction techniques
    e. Consistency with City Green Building Ordinances and Policies
    f. Consistency with GHG Reduction Strategy Policies MS-1.1, MS-1.2, MS-2.3, MS-2.11, and MS-14.4;
3. Pedestrian/Bicycle Site Design Measures
    a. Consistency with Zoning Ordinance
    b. Consistency with GHG Reduction Strategy Policies CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.18, TR-3.3, and TR-6.7;
4. Salvage building materials and architectural elements from historic structures to be demolished to allow reuse (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g., data centers; General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses, if applicable. All new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow (General Plan Policy LU-3.6).

The proposed project is consistent with the General Plan land use and zoning designation for the site. The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Building Code requirements. The project would also be designed to achieve LEED certification in compliance with Policy 6-32. Given the project's consistency with the General Plan land use designation, compliance with Policy 6-32 and California Building Code requirements, the project would be consistent with mandatory criteria 1, 2, and 3.

The proposed project would include a TDM plan and, therefore, the project would be consistent with criteria 6.

Criteria 4, 5, and 7 are not applicable to the proposed project because the project site has no historic structures, the project does not include a data center or other energy-intensive uses, and the site does not propose drive-through or vehicle serving uses.

Despite the project's consistency with relevant plans and policies, as detailed in the Downtown Strategy FEIR, operational emissions from the Downtown Strategy 2040, including the proposed development, would meet the 2030 threshold, but would not meet the 2040 threshold.

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based, in part, on a Phase I Environmental Site Assessment (ESA) prepared by *AEI Consultants* in May 2018. A copy of this report is attached as Appendix E to the SEIR.

4.9.1 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.

4.9.2 Applicable Hazardous Materials and Hazards Regulations and Policies

Federal and State Hazardous Materials Laws and Regulations

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Key federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA).

In California, the U.S. Environmental Protection Agency (EPA) has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (Cal/EPA). In turn, local agencies including the Santa Clara County Department of Environmental Health (SCCDEH) have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include the BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface and groundwater. Oversight over investigation and remediation of sites impacted by hazardous materials releases can be performed by state agencies, such as the Department of Toxic Substance Control (DTSC), a division of Cal/EPA, regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation of Leaking Underground Storage Tank (LUST) sites in San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and Cal/EPA Division of Occupational Safety and Health, better known as Cal/OSHA (worker safety).

Government Code §65962.5 (Cortese List)

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

California Accidental Release Prevention Program

The California Accidental Release Prevention Program (CalARP) Program requires facilities that store or use specified quantities of toxic and flammable substances to create a Risk Management Plan (RMP). The purpose of creating a RMP is to inform first responders in order to prevent or mitigate damage to the public health and safety should accidental releases of hazardous materials occur, pursuant to federal and state Community Right-to-Know laws. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

Federal Aviation Regulations, Part 77

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets standards and review requirements for protecting the airspace for safe aircraft operations. The FAR Part 77 restricts the height of structures, and sets standards for minimization of potential hazards like reflective surfaces, flashing lights, and electronic interference, that could potentially interfere with aircraft operations. Building height structures are intended to keep flight paths clear of structures that could interfere with takeoff and landing movements.

For the project site, FAR Part 77 would require any proposed structure higher than approximately 90 feet above ground to be submitted to the FAA for airspace safety review. As the project proposes a maximum building height of 78 feet (top of elevator tower), review by the FAA is not required.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport is located approximately 2.3 miles northwest of the project site. Development within the Airport Influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The County of Santa Clara Airport Land Use Commission (ALUC) adopted an Airport Comprehensive Land Use Plan (CLUP) in October of 2010, amended November 16, 2016, to address these potential hazards and establish review procedures for potentially incompatible land uses.

The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the CLUP. The CLUP set standards focused on three areas of ALUC responsibility: noise, objects in navigable airspace, and the safety of persons on the ground and in aircraft. Market Street forms the southeastern boundary of the AIA, and as such, the proposed project is located within the AIA. Projects within the AIA are subject to an additional level of review by the City to determine how policies established in the CLUP may impact the proposed development.

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 hazards and hazardous materials policies applicable to the proposed project.

Envision San José 2040 Relevant Hazards and Hazardous Materials Policies	
Policy	**Description**
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2.1 *Existing Conditions*

Historic Uses and Known Contamination

According to the Phase I completed in May 2018, the 0.20-acre project site, which is currently developed with a parking lot, was historically developed with a gasoline service station/auto repair facility from at least 1935 to 1955. Based on the length of time that the project site had been utilized as a gasoline service station/auto repair facility, and the time period of operation (prior to regulatory oversight with respect to hazardous substance handling/disposal practices), and the absence of data confirming whether a release had occurred following removal of an underground storage tank on-site, it is possible that petroleum hydrocarbons may have impacted the subsurface of the subject property. The former presence of the gasoline service station/auto repair facility and presumed storage of petroleum hydrocarbons in USTs is considered a recognized environmental concern (REC).

4.9.2.2 *Off-site Sources of Contamination*

The multi-story office building across West Santa Clara Street (1 Almaden Boulevard), was historically developed with auto repair facilities and/or gas stations from at least 1915 to

approximately 1960. Based on the proximity of the site to the subject property, duration of former use and the lack of regulatory oversight during these time periods, there may have been a release from this site that may have impacted the subsurface of the project site. This represents a REC, as it may pose a threat for vapor phase contaminant migration to the project site.

4.9.2.3 *Airports*

The Norman Y. Mineta San Jose International Airport is located approximately 1.7 miles northwest of the project site. As previously mentioned, 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 60-65 feet in height above grade would require submittal to the FAA for airspace safety review. As the proposed project would have a maximum height of 225 feet therefore, notification to the FAA is required to determine the potential for the project to create an aviation hazard.

Wildland Fire Hazards

The project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires.[34]

4.9.3 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐	☒

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
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?	☐	☐	☐	☒	☐
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, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	☐
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒	☐

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

Impact HAZ-1: The project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact)]**

The Downtown Strategy 2040 FEIR identified that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. The proposed hotel would routinely use limited amounts of cleaning materials would not generate substantial hazardous emissions from hazardous materials use. As applicable, current regulations and programs for regulated hazardous materials use would ensure potential impacts from the use of these chemicals would be less than significant.

Impact HAZ-2:	The project would not 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. **[Same Impact as Approved Project (Less than Significant Impact With Mitigation Incorporation)]**

According to the Phase I completed in May 2018, the project site was developed with a gas station and historically included auto repair uses. Based on these uses, there is a potential that releases of petroleum hydrocarbons have occurred and that impacted soil, groundwater, or soil vapor may be encountered during construction activities. Construction workers could be exposed to contaminated soils or groundwater and elevated concentrations of petroleum hydrocarbons in soil vapor, if present and not remediated or handled properly.

Development of the proposed project could potentially expose construction workers and the adjacent residents to contaminated soils, soil vapors, or groundwater with redevelopment of the site.

Mitigation Measures:

MM HAZ-2.1: Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency and program, the project proponent shall develop a Soil and Groundwater Management Plan (Plan), or similar document, as required by SCCDEH, to be implemented prior to and during construction to protect construction worker safety, the public, and the environment.

The Soil and Groundwater Management Plan shall include measures such as:

1. A detailed discussion of the site background;
2. Health and Safety Plan to protect construction workers;
3. Soil management protocol to manage contaminated soils if encountered on-site;
4. Proper procedures as needed for demolition of existing structures;
5. Management of stockpiles, including sampling, disposal, and dust and runoff;
6. Control including implementation of a stormwater pollution prevention program;
7. Procedures for transporting and disposing the waste material generated during removal activities;
8. Procedures for stockpiling soil on-site, if such stockpiling is necessary;
9. Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities;
10. Procedures to ensure that fill and cap materials are verified as clean;
11. Truck routes for export of soil;
12. Staging and loading procedures and record keeping requirements;

13. Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paints, etc.) is discovered during excavation or demolition activities;
14. Details on dewatering procedures including permitting with the City of San José Environmental Services Department for treatment and discharge to the sanitary sewer or the Regional Water Quality Control Board (RWQCB) for treatment and discharge to the storm drain system.

The Plan shall be submitted to the SCCDEH, or equivalent regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Director of Planning or Designee and the Municipal Compliance Officer of Environmental Services Department prior to issuance of any demolition or grading permits.

As disclosed and evaluated in the Downtown Strategy 2040 FEIR, redevelopment of sites within the downtown could expose construction workers and/or the public to hazardous materials from existing soil and groundwater contamination. Implementation of mitigation measures based upon the policies in the General Plan and mitigation measures identified in the Downtown Strategy 2040 FEIR would reduce these potential impacts to a less than significant level, as described above.

With the implementation of the proposed mitigation and the City's policies and existing regulations would reduce hazards to the people and the environment to a less than significant level.

Impact HAZ-3:	The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **[Less Impact as Approved Project (No Impact)]**

There are no existing or proposed schools within one-quarter mile of the project site.

Impact HAZ-4:	The project would not 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, create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is not identified on the Cortese List. With implementation of MM HAZ-1.1, the project would not create a significant hazard to the public or environment.

Impact HAZ-5:	The project would not be 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. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **[Same Impact as Approved Project (Less than Significant Impact)]**

Federal Aviation Administration (FAA) Regulations and review requirements have been implemented to protect the airspace near airports, particularly by restricting the height of potential structures and minimizing other hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. Under the FAR Part 77, the FAA must be notified of proposed structures within an extended zone defined by a set of imaginary surfaces or slopes that radiate out for several miles from an airport's runways, or which would stand at least 200 feet or more in height above ground. For the project site, any proposed structure greater than approximately 60-65 feet above ground is required under FAR Part 77 to be submitted to the FAA for airspace safety review. As the project proposes to construct a 225-foot building, the project is required to be reviewed by the FAA. General Plan Policy TR-14.2 requires FAA issuance of "determinations of no hazard" prior to project approval, with any conditions set forth in an FAA no-hazard determination to be incorporated into the City's project approval. As a result, the project would not result in a substantial safety hazard for people residing or working in the project area.

Impact HAZ-6:	The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project, redevelopment of an urban, downtown site without modification to the existing roadway network, 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.

Impact HAZ-7:	The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

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.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Setting

4.10.1.1 *Applicable Plans, Policies, and Regulations*

Federal Emergency Management Agency

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The NFIP makes federally-backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

The Federal Emergency Management Agency (FEMA) administers the NFIP to provide subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of this program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify flood hazard zones within a community. The type of flooding most likely to affect the Downtown Strategy 2040 area is storm-related flooding of creeks and storm drains. According to the FEMA maps, the majority of the Downtown Strategy 2040 area is not within a 100-year flood hazard area and the floodplain is primarily confined to the Los Gatos Creek and Guadalupe River channel. The only two areas within the 100-year floodplain are near the intersection of The Alameda and Stockton Avenue (Zone AO) and south of the railroad tracks near Howard and Cinnabar Streets (Zone AH). These areas could experience flood depths of one to three feet during a 100-year storm event.

Federal and State Laws and Programs Regarding Water Quality

The Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA governs discharges to the "Waters of the United States," which includes oceans, bays, rivers, streams, lakes, ponds, and wetlands. The Porter-Cologne Act established the SWRCB.

Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into Waters of the United States. These regulations are implemented at the regional level by water quality control boards. For the City of San José, the water board is the San Francisco Bay RWQCB. Regional Boards are responsible for developing and enforcing water quality objectives and implementation plans, known as Basin Plans. The San Francisco region's Basin Plan was last updated in 2010.

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. San Francisco Bay and Guadalupe River are on the Section 303(d) list as an impaired water body for several pollutants.

State Water Quality Control Board Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Program in an effort to control nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source

Program is administered by RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

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

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

Municipal Regional Stormwater NPDES Permit/C.3 Requirements

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the MRP, redevelopment projects that add or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all post-construction runoff to be treated using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project qualifies for a Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site, depending on the project characteristics. This would also require a narrative discussion as to why the implementation of 100 percent LID measures is not feasible per the MRP.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM). This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

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

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 hydrology and water quality and are applicable to the proposed project.

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy	**Description**
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
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 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 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 stormwater controls.
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-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.10.1.2 *Existing Conditions*

Surface Water

The project site is located within the Guadalupe Watershed which consists of a 170 square mile area of multiple small-creek watersheds including the Guadalupe Creek and Los Gatos Creek watersheds. The project site is entirely impervious. An 18-inch storm pipe is located in West Santa Clara Street. Runoff from the site discharges to the Guadalupe River, and is ultimately conveyed to the San Francisco Bay.[35]

Groundwater

The project site is located in the Santa Clara Valley Groundwater Basin between the Diablo Mountains to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley

[35] City of San José. Utility Viewer. Accessed on: July 26, 2018. Available at: https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=0d463f017c8a48a7b73b2d35bd7381f1.

Groundwater Basin is filled by valley floor alluvium and the Santa Clara Formation. Groundwater in the project area has been encountered at a depth of approximately 15-20 feet below ground surface bgs. Based on local topography, groundwater in the project area flows in a northwesterly direction towards Guadalupe River. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

The project site is not located within a natural or facility groundwater recharge area.[36]

Flooding

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map, the site is located within Zone X, which is defined as areas of 0.2 percent annual chance flooding; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square miles.

Dam Failure

The Association of Bay Area Governments (ABAG) compiles the dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. Based on the SCVWD dam failure inundation hazard maps, the project site is located within the Lexington Dam and Anderson Dam failure inundation hazard zone.[37, 38]

Earthquake-Induced Waves, Sea Level Rise, and Mudflow Hazards

Per the Downtown Strategy 2040 FEIR, due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise. The project site is located in a flat, urbanized area and, therefore, is not subject to mudflows.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from roads are collected by storm drains and discharged into the Guadalupe River. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentrations, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

Under existing conditions, the project site is entirely paved. Runoff from the site likely contains pollutants typical in urban, developed environments, including: sediment, automobile fluids, motor oil, grease and trash.

[36] Santa Clara Valley Water District. *Groundwater Management Plan.* Figure 2-3. 2012.
[37] Santa Clara Valley Water District. "Lexington Reservoir and Leniham Dam." Accessed: September 27, 2018. Available at: http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx.
[38] Santa Clara Valley Water District. "Anderson Dam and Reservoir." Accessed: September 27, 2018. Available at: http://www.valleywater.org/Services/AndersonDamAndReservoir.aspx.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☐	☒	☐
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

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

Impact HYD-1:	The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction-Related Impacts

Construction of the proposed project, as well as grading and excavation activities, would result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the project would disturb approximately 0.20 acres of soil, which is below the one-acre threshold for compliance with the NPDES General Permit for Construction Activities. The project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it would create or replace less than one acre of impervious surfaces and is located in a subwatershed greater than or equal to 65 percent impervious. The project is therefore, not required to obtain the NPDES General Permit for Construction Activities.

Regardless of whether a project is required to obtain a NPDES General Permit for Construction Activities, all development projects in San José are required comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the applicant will be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management Practices (BMPs) that will be implemented to prevent the discard of stormwater pollutants.

Standard Permit Conditions

Consistent with the General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

The project, with the implementation of the above standard permit conditions, would not result in new or more significant construction-related water quality impacts than disclosed in the Downtown Strategy 2040 FEIR.

Post-Construction Impacts

Under existing conditions, the project site is entirely impervious. Upon completion of the proposed development, the project site would decrease impervious surfaces through installation of stormwater treatment features (e.g. planters). Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. This specific development would, therefore, be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP.

The project may qualify for LID treatment reduction credits under the Special Projects provisions for small infill development. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is ultimately subject to the City's review and approval. Stormwater runoff from the site would be directed to media filters, and/or flow-through planters on-site prior to entering the storm drainage system. The drainage management areas would be numerically sized and would have sufficient capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements. In addition, the project includes a flow-through planter and media filter to reduce stormwater runoff.

The Downtown Strategy 2040 FEIR concluded that projects designed consistent with the current NPDES permit would ensure stormwater runoff from new development would have a less than significant impact on stormwater quality. Compliance with the City's Grading Policy, the City's Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts on water quality as described in the General Plan FEIR (as amended) and Downtown Strategy 2040 FEIR.

Impact HYD-2:	The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project includes a basement for utilities that would extend approximately 10 feet bgs. Because groundwater in the project area is expected to be approximately 18 - 22 feet bgs, it is not expected that construction activities would encounter groundwater on-site.

Furthermore, as discussed previously, the project site is not located within a natural or facility groundwater recharge area. In the event post-construction dewatering is required, the project shall be reviewed by the City's Environmental Services Engineering section to ensure conformance with the City's Stormwater Permit requirement during the Building Permit stage (standard permit condition). For these reasons, the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. The project would not result in a new or more significant impact on groundwater than described in the Downtown Strategy 2040 FEIR.

Impact HYD-3:	The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. **[Same Impact as Approved Project (Less than Significant Impact)]**

Under existing conditions, the project site is entirely impervious. Under project conditions, the impervious surfaces on-site would decrease by approximately 597 sf which would result in a slight decrease in stormwater runoff. The drainage pattern of the project site would not be substantially altered by the proposed development. The project would comply with the MRP and City Council Policy 6-29, removing pollutants and reducing the rate and volume of runoff from the site through post-construction Treatment Control Measures. The project is located on relatively flat terrain, thus a significant increase in erosion or siltation is not expected.

The proposed project is not located within a 100-year floodplain. As designated by the FEMA Flood Insurance Rate Map, the project site is located in a Flood Zone X, indicating an undetermined flood hazard. The project doesn't propose the alteration of the course of a stream or a river, actions which could potentially increase the risk of flooding on- or off-site. Standard measures would be applied that will lower the rate and volume of stormwater runoff from the site to further reduce the risk of potential flood events.

The Downtown Strategy 2040 FEIR has identified project-level measures for proposed development projects in the Downtown Area that will reduce stormwater drainage impacts to a less than significant level such as:

- New development will be required to design and construct on-site storm drain systems meeting the City's 10-year storm event design standard (GP Policies IN-3.1 and IN-3.7). Applicants shall prepare drainage plans that define needed improvements in accordance with City standards and MRP requirements (GP Policies IN-3.9 and IN-3.10).

- Future projects will be 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.

Consistent with the Downtown Strategy 2040 FEIR, the proposed project would not increase impervious surfaces on-site or significantly alter drainage patterns in the area. Stormwater runoff from the site would be treated with the media filter prior to entering the storm drainage system.

Due to the scope of the proposed project, adherence to the above Standard Permit Conditions, and the proposed utility improvements, impacts resulting from drainage pattern alteration, increased risk of flooding, and/or an exceedance of the capacity of the existing storm drain system would be less than significant.

As discussed previously, the project site is within Flood Zone X. The project, therefore, would not place a structure within a 100-year flood hazard area or impede or redirect flood flows.

Impact HYD-4:	The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is not located within a Special Flood Hazard Area as delineated by FEMA. Neither housing nor structures will be placed in a 100-year flood hazard area.

The project site is not located adjacent to any large bodies of water (i.e., the San Francisco Bay), nor is the project located within a designated tsunami inundation zone. The site is located on relatively flat terrain within the downtown area of San José, and there are no nearby hillsides or steep embankments that could present a mudflow hazard.

The project site is not located in any dam failure inundation area, as identified in the General Plan FEIR, SEIR, and Addenda thereto. The site would not be subject to inundation from potential failure of any dams in the area. The proposed project would not risk the release of pollutants due to project inundation.

Impact HYD-5:	The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project proposes stormwater treatment controls consistent with the MRP and would therefore not obstruct implementation of the Basin Plan. The project would floodproof the proposed subgrade parking garage to avoid the need for groundwater pumping on an ongoing basis. The project is not located in a groundwater recharge zone and would otherwise have no effect on groundwater management.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

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

Envision San José 2040 Relevant Land Use Policies	
Policy	**Description**
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
Policy CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

Envision San José 2040 Relevant Land Use Policies	
Policy	**Description**
Policy LU-3.4	Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
Policy LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrian, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Airport Land Use Commission (ALUC) Comprehensive Land Use Plan (CLUP)

The project site is located approximately 1.7 miles southeast of the Norman Y. Mineta San Jose International Airport and within the "Airport Influence Area" defined by the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan (CLUP). The Envision San Jose 2040 General Plan incorporates applicable CLUP policies, including a requirement that the project property owner grant an Avigation Easement to the City (setting forth acceptance of elevation limits and aircraft overflight impacts) prior to development.

4.11.1.2 *Existing Conditions*

Existing Land Uses on the Project Site

The 0.20-acre project site is developed with a parking lot. The project site is at the corner of West Santa Clara Street and Almaden Boulevard in downtown San José. There is one driveway on Almaden Boulevard that provides automobile access to the site.

Surrounding Land Uses

The project site is surrounded by existing urban development and roadways. The project site is bounded by De Anza Hotel to the east, Axis residential tower to the north, Almaden Boulevard to the

west, and West Santa Clara Street to the south. Surrounding office buildings within the project vicinity are multi-story. West Santa Clara Street has a mix of office, commercial, and residential uses.

Existing Land Use Designation and Zoning

The project site is designated *Downtown* in the 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, density of up to a floor area ratio (FAR) of 30.0 and residential densities up to 800 dwelling units per acre (DU/AC). Under this designation, redevelopment should be at very high intensities unless the project would result in incompatibility with other major policies within the Envision 2040 General Plan.

The project site is zoned *DC - Downtown Primary Commercial.* 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.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1. Physically divide an established community?	☐	☐	☐	☒	☐
2. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐
3. Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☒	☐

Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR, SEIR, and Addenda thereto, the proposed project would result in less than significant land use impacts, as described below.

Impact LU-1:	The project would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently developed as a parking lot. The Downtown Strategy 2040 contains land use guidelines that seek to ensure that the mixed-use approach to the greater downtown would beneficially influence development, promote an active and lively streetscape, and reduce potential land use conflicts. The new development would complement the existing uses in the project area and, as a result, the project would not physically divide an established community.

a)

Impact LU-2:	The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **[Same Impact as Approved Project (Less than Significant Impact)]**

Consistency with General Plan Policies and the Municipal Code

The project site's General Plan destination is Downtown and is intended to allow for residential, office, services, retail, and entertainment uses. Buildings can be up to 30 stories with an FAR of 30.0. High density mixed-use buildings (up to 800 du/ac) for commercial and residential land uses are encouraged within this designation.

As outlined in Section 4.11.1.2, the project site is zoned DC- Downtown Primary Commercial which permits uses consistent with the Downtown General Plan designation.

The project is consistent with the general plan and land use designations. Specifically, the project would be a 19-story hotel with restaurant/entertainment amenities, with an FAR of 16.7. Furthermore, the project would comply with the City's applicable Design Guidelines as discussed in Section 4.1 of this Initial Study. The project is an infill development within closer proximity to existing services and alternative modes of transportation. As previously mentioned, the project would be subject to FAA's regulation and shall obtain a FAA Determination of No Hazard prior to the development of the building.

The project is an infill development within the downtown core in proximity to alternative modes of transportation and services. The project would include two restaurant/bar facilities that would add retail and services establishments to the downtown area. The project would also comply with applicable design guidelines and FAA standards to minimize impacts to potential historic resources and flight patterns as discussed in previous sections.

Furthermore, the project would not provide parking for automobiles but would provide parking for 36 bicycles on-site. Per the Municipal Code section 20.90.200, off-street parking facilities arrangements can be implemented if it is reasonably certain that adequate parking is provided and maintained for the lifetime of the project. As proposed parking would be provided at the San Pedro Market Street Garage via a valet service through a parking agreement with the City for up to 30 years. Given that the site is within the downtown core and in proximity to services and multiple modes of transit, the shared parking option with the City would incentivize other modes of

transportation that is readily available in proximity of the proposed project site and is consistent with existing and potential trends of increasing alternative modes of transportation. In addition, the shared parking would be consistent with City's policy to reduce Vehicle Miles Traveled and Policy LU-3.5 to balance the need for parking to support the thriving downtown. Refer to TransportatioN section for further discussion of parking and operation.

Compatibility with Airport Operations

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

Compatibility Plan height regulations and policies, and Section 4.12 Noise regarding required project compliance with Envision San José 2040 General Plan and ALUC noise policies. As indicated, (a) FAA issuance of "no hazard" determinations and City incorporation of any associated conditions set forth by the FAA, is required prior to City project approval, and (b) residential and commercial land uses are considered compatible (subject to standard mitigation) within the project's 65-70 dBA CNEL aircraft noise environment.

Pursuant to City and ALUC policy, the applicant would be required to grant an Avigation Easement over the project site as a condition of project approval. The recorded easement would provide for acceptance of aircraft noise and other effects of aircraft flyovers as well as elevation restrictions that allow for the currently proposed maximum building height of 225 feet above ground. Also, the project's proposed maximum height would not impact any aircraft emergency one-engine inoperative (OEI) procedure currently used by airlines at the Airport.

By requiring the proposed project to comply with General Plan policies and FAA development restrictions, the proposed project would have a less than significant impact on airport operations.

Impact LU-3:	The project would not result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park). **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located roughly 600 feet east of the Guadalupe River Park and 900 feet north of McEnery Park. Due to the project's location in the northern hemisphere, shadows from the proposed building would extend to the north, east, and west, but not the south. As a result, the project would not result in shadows cast onto McEnery Park to the south. Based on the location of the Guadalupe River Park to the west of the project, the proposed building would cast shadows in the direction of the park during the morning hours. With a proposed height of 225 feet, the longest westward shadow cast by the building would be 788 feet from the base of the building at 9:00 AM on the winter solstice. As a result, the project may cast a shadow roughly 188 feet onto the Guadalupe River Park at that time. It should be noted that the 10-story Comerica Bank building and the elevated SR-87 overpass are located between the project site and the park, and would likely block most, if not all, of

the proposed building's shadow before it reaches the park. Additionally, the Guadalupe River Park is roughly 120 acres in size, and a potential shadow of 188 feet would not result in a 10 percent increase in shadow at the park.

4.12 MINERAL RESOURCES

4.12.1 Setting

An area of Communications Hill in central San José is designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 as containing mineral deposits of regional significance.[39]

The project site is not located near Communications Hill or any other area containing known mineral resources.

4.12.2 Impact Discussion

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

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR (as amended), the proposed project would not impact mineral resources, as described in the following.

Impact MIN-1:	The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **[Same Impact as Approved Project (No Impact)]**

The project site is not located in an area containing known mineral resources. Project implementation, therefore, would not result in the loss of known mineral resources.

Impact MIN-2:	The project would not 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. **[Same Impact as Approved Project (No Impact)]**

As stated above, the project site is not located in an area containing known mineral resources and, therefore, project implementation would not result in the loss of mineral resources.

[39] City of San José. *Envision 2040 General Plan FEIR.* September 2011. Page 516.

4.13 NOISE AND VIBRATION

The following discussion is based on a Noise and Vibration report prepared by *Illingworth & Rodkin, Inc.* in July 2018 and a supplemental noise memo prepared by *Illingworth & Rodkin* in July 2019. A copy of the report is attached as Appendix F to the SEIR.

4.13.1 Setting

4.13.1.1 *Overview of Noise Principles*

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.

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, however, also decreases at night and exterior noises become more noticeable. Further, 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, or Ldn 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.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 90 to 95 dBA Lmax at a distance of 50 feet. Typical hourly average construction-generated noise levels are approximately 81 to 88 dBA Leq measured at a distance of 50 feet from the site during busy construction periods. Construction generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

Construction Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. This discussion uses Peak Particle Velocity (PPV) to quantify vibration amplitude which is defined as the maximum instantaneous positive or negative peak of the vibration wave. A PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building

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

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

4.13.1.2 *Applicable Plans, Policies, and Regulations*

2017 State Building Code, Title 24, Part 2

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other 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 policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following noise and vibration policies are applicable to the proposed project.

Envision San José 2040 Relevant Noise and Vibration Policies	
Policy	**Description**
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted 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 *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Envision San José 2040 Relevant Noise and Vibration Policies	
Policy	**Description**
	Exterior Noise Levels • 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). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: o For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
Policy EC-1.6	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.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. • For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there

Envision San José 2040 Relevant Noise and Vibration Policies	
Policy	**Description**
	will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 4.12-1 shows the City of San José standards for General Plan Land Use compatibility and established noise thresholds.

Table 4.12-1: Proposed General Plan Land Use Compatibility Guidelines (GP Table EC-1)

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

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

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

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

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

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.[40]

The Zoning Ordinance limits operational 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. The Zoning Ordinance also limits noise emitted by stand-

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

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.

4.13.1.3 *Existing Noise Conditions*

Noise in the project area is dominated by vehicular traffic along West Santa Clara Street and SR 87. The Downtown Strategy 2040 FEIR estimated noise levels in the project area to reach approximately 70-75 dBA.

According to the City's current and projected aircraft noise contours for the Norman Y. Mineta San José International Airport, the project site is, and will remain exposed to an aircraft noise level of 65 DBA CENL.

4.13.1.4 *Sensitive Receptors*

The nearest sensitive land use to the project site is the adjacent residential tower, approximately 60 feet north of the site.

4.13.2 Environmental Checklist

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

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

noise level standard. Where noise levels would remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR (as amended), the proposed project, by itself, would result in less than significant noise and vibration impacts, as described below.

4.13.3 Impact Discussion

Impact NOI-1:	The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **[Same Impact than Approved Project (Significant Unavoidable Impact)]**

Project-Generated Traffic Noise

An increase of three dBA DNL is considered substantial in noise sensitive areas along roadways. The proposed project would have to double the existing traffic volumes in the area to substantially increase nose levels by three dBA or more. Based on the project design and use, relative to traffic volumes in the project area, vehicular traffic generated by the project is not anticipated to increase noise levels substantially in the area as project traffic trips would only make up a small portion of the total traffic along area roadways, including West Santa Clara Street and Almaden Boulevard. According to calculations completed as part of the project's Transportation Analysis, the project would increase vehicle volumes at the intersection of West Santa Clara Street and Almaden Boulevard by seven and eight percent during the AM and PM peak hours, respectively. As a result the project by itself would have a less than significant long-term traffic noise impact. However, the Downtown Strategy 2040 FEIR identified significant unavoidable traffic noise impacts on several roadways, including Santa Clara Street in the vicinity of Montgomery Street, and Almaden Boulevard in the vicinity of San Carlos Street. The project would contribute to the significant unavoidable traffic noise impacts in these areas.

Project Mechanical Noise

The proposed project would include various mechanical equipment such as air condition systems, exhaust fans, and ventilation systems that could increase ambient noise levels in the immediate project vicinity. Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses.

Standard Permit Condition: In accordance with the General Plan FEIR as amended, and the Downtown Strategy 2040 FEIR, the proposed project would be required by Conditions of Approval to implement the following measure:

- A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the

shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits.

With implementation of standard permit conditions and compliance with General Plan Policy EC-1.3, the project would have a less than significant operational impact.

Operational Noise – Roof Top Bar/Restaurant

As proposed, the project would include an enclosed roof-top bar/restaurant with an attached open terrace on the 19th floor of the building. The bar/restaurant would have a maximum occupancy of 135 people and is proposed to operate from 4:00 PM to midnight. No live music is proposed. The terrace would be located on the western portion of the building, wrapping around to the southern end of the building.

Activity within the enclosed bar/restaurant would not be audible outside of the building structure. The enclosed structure, which would be on the eastern side of the 19th floor, would also provide acoustical shielding from the terrace activities to receptors at the De Anza Hotel.

The Downtown Strategy 2040 FEIR estimated noise levels in the project area to reach 70 to 75 dBA DNL, and the project site and adjacent land uses are within the Mineta San José Airport 65 DBA CNEL noise contour. Typical noise levels for activity at the bar/restaurant and terrace is 64 dBA (A-weighted Leq) for raised conversation and 57 dBA for dinner with background music at a distance of 50 feet. Based on the existing noise environment and typical noise levels for activities that would occur on-site, the estimated noise levels of the bar/restaurant on the adjacent De Anza Hotel and Axis Condominiums were calculated. The result of the analysis are shown in Table 12-2 below.

Table 12.2: Summary of Noise Modeling Results and Calculations in dBA

Building	Location	Project Activity		Ambient	Ambient + Project	Project Generated Noise Increase
		Leq	DNL	DNL	DNL	
Axis Condos	R1: South Façade	40	41	65	65	0
	R2: Southwest Façade	42	42	65	65	0
	R3: West Façade	40	40	65	65	0
	R4: Pool Area	26	27	65	65	0
	R5: Hot Tub	27	27	65	65	0
	R6: Rooftop Area	26	26	65	65	0
De Anza Hotel	R7: Event Area	27	27	65	65	0
	R8: Northwest Façade	30	30	65	65	0
	R9: Southwest Façade	30	30	65	65	0
Comerica Bank	R10: East Façade	33	33	65	65	0

As shown in Table 12.2, operation of the roof top bar and patio would have no measurable increase on ambient noise levels in the project area. As a result, the proposed roof top bar and patio would have a less than significant impact on adjacent and nearby businesses and residences.

Construction Noise

Chapter 20.100.450 of the City of San José's Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. Policy EC-1.7 requires that all construction operations within the City use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours. The City of San José considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or within 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

Neither the City of San José nor the State of California specify quantitative thresholds for the impact of temporary increases in noise due to construction. The threshold for speech interference indoors is 45 dBA. Assuming a 15-dB exterior-to-interior reduction for standard residential construction with windows open and a 25 dB exterior-to-interior reduction for standard commercial construction, assuming windows closed, this would correlate to an exterior threshold of 60 dBA L_{eq} at residential land uses and 70 dBA L_{eq} at commercial land uses. The project would be considered to generate a significant temporary construction noise impact if project construction activities exceeded 60 dBA L_{eq} at nearby residences or exceeded 70 dBA L_{eq} at nearby commercial land uses and exceeded the ambient noise environment by 5 dBA L_{eq} or more for a period longer than one year.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used (see Table 4.12-2). The highest noise levels are typically generated during grading, excavation, and foundation construction. The hauling of excavated materials and construction materials would also generate truck trips on local roadways. The erection of large buildings from steel structures could also cause considerable noise for fairly long durations. Construction of the proposed project would involve grading, excavation to lay foundations, trenching, building erection, and paving and would occur over a period exceeding 12 months. Due to the density in the immediate area and proximity to other structures, pile driving, which can cause excessive vibration, would not be used and the use of auger cast piles is proposed instead.

Noise sensitive uses surrounding the site include the adjacent De Anza Hotel to the east, the Axis Condominium Building, approximately 60 feet to the north, and the Comerica Bank, approximately 60 feet to the west. Noise levels due to construction activities would exceed 60 dBA L_{eq} at nearby residences/hotels and 70 dBA L_{eq} at nearby commercial buildings and ambient levels by more than five dBA L_{eq} over a period exceeding one year. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. Unshielded construction activities would be anticipated to exceed 60 dBA L_{eq} within 500 feet and 70 dBA L_{eq} within 200 feet of unshielded construction activities. Noise levels in shielded areas would be anticipated to be five to 20 dB lower.

As described in the Downtown Strategy 2040 FEIR, the Municipal Code requires that reasonable noise reduction measures be incorporated into the construction plan and implemented during all phases of construction activity. Additionally, larger construction projects that last over one year in duration and would exceed the City's standard are required to prepare a construction noise logistics plan", in accordance with General Plan Policy EC-1.7. The Downtown Strategy 2040 FEIR concluded that compliance with the Municipal Code and General Plan Policy EC-1.7 would reduce construction noise impacts to a less than significant level. Consistent with the requirements of the Downtown Strategy 2040 FEIR, the project would be required to implement the following standard permit conditions to ensure compliance with the Municipal Code and General Plan Policy EC-1.7.

Standard Permit Conditions

The following standard measures would be implemented during project construction:

- Per General Plan Policy EC-1.7, the project shall prepare a construction noise logistics plan, specifying the hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints. The logistics plan shall be implemented prior to the start of construction and during construction to reduce noise impacts on neighboring residents and other adjacent uses.

  The following best management practices shall be implemented during project construction:

  - Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
  - Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
  - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - Unnecessary idling of internal combustion engines should be strictly prohibited.
  - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by five dBA.
  - Utilize "quiet" air compressors and other stationary noise sources where technology exists.
  - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
  - Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
  - Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the

cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

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

Impact NOI-2:	The project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact with Mitigation Incorporated)**

Construction Vibration

Construction activities associated with the project would include demolition of existing site improvements, site preparation, foundation work, and new building framing and finishing. Due to the density in the immediate area and proximity to other structures, the project does not propose pile-driving. Piles would be auger casted. The drilled systems available for the shoring system and the foundations (i.e. auger cast piles) minimize vibration to the extent feasible for the historic hotel as drilled foundations produce substantially lower vibration levels as compared to foundations constructed utilizing impact or vibratory hammers. The use of other high vibration generating equipment would be avoided. Table 4.12-3 shows the typical vibration levels from construction equipment at 5, 25, 30, 40, and 60-foot distances.

Table 4.12-3:
Vibration Construction Equipment at Various Distances

Equipment		PPV at 5 ft. (in/sec)	PPV at 25 ft. (in/sec)	PPV at 30 ft. (in/sec)	PPV at 40 ft. (in/sec)	PPV at 60 ft. (in/sec)
Clam shovel drop		1.186	0.202	0.165	0.120	0.077
Hydromill (slurry wall)	in soil	0.047	0.008	0.007	0.005	0.003
	in rock	0.100	0.017	0.014	0.010	0.006
Vibratory Roller		1.233	0.210	0.172	0.125	0.080
Hoe Ram		0.523	0.089	0.073	0.053	0.034
Large bulldozer		0.523	0.089	0.073	0.053	0.034
Caisson drilling		0.523	0.089	0.073	0.053	0.034
Loaded trucks		0.446	0.076	0.062	0.045	0.029
Jackhammer		0.206	0.035	0.029	0.021	0.013
Small bulldozer		0.018	0.003	0.002	0.002	0.001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006 as modified by Illingworth & Rodkin, Inc., June 2018.

As indicated in Table 4.12-3, heavy vibration generating construction equipment, such as vibratory rollers or clam shovel drops, would have the potential to produce vibration levels of 0.08 in/sec PPV or more at historic buildings within 60 feet of the project site. This same equipment would have the potential to produce vibration levels of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site.

According to the City of San José Historic Resources Inventory,[41] the De Anza Hotel which adjoins the site to the east, is considered a historic building. Other nearby historic buildings include the Lyndon Building (177 West Santa Clara Street), the IBM Building (99 Notre Dame Avenue), the Hatman/Normandin Block (14-16 South Almaden Avenue), and the Alice McNally Residence (83 North Almaden Avenue); these buildings are all located 400 feet or more from the project site.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) may generate substantial vibration in the immediate vicinity of the historic De Anza Hotel. Some activities would occur at distances as close as five feet from the hotel, and at this distance, vibration levels due to construction are conservatively calculated to reach up to 1.2 in/sec PPV, which would exceed the 0.08 in/sec PPV threshold for historic buildings. Vibration levels at all other historic buildings in the vicinity are calculated to be below the historic building threshold and would not be impacted by project construction.

Mitigation Measures:

MM NOI-1.1: The project applicant shall prohibit impact or vibratory pile driving. This measure shall be printed in all construction contracts and plans.

MM NOI-1.2: The project applicant shall prepare a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.), and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring.

MM NOI-1.3: The project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan ("Plan") to document conditions at the historic De Anza Hotel prior to, during, and after vibration generating construction activities. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:

[41] City of San José. City of San José Historic Resources Inventory. February 8, 2016. Available at: www.sanjoseca.gov/DocumentCenter/View/35475 . Accessed on October 2, 2018.

- A photo survey, elevation survey, and crack monitoring survey for the historic De Anza Hotel. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.

- A contingency section or plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits.

- If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.

    - Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.

    - Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the City's Director of Planning, Building and Code Enforcement or designee and the Historic Preservation Officer two weeks after completion of each phase identified in the project schedule.

    - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

- The project applicant shall submit the Construction Vibration Monitoring, Treatment, and Reporting Plan to the City's Director of Planning, Building and Code Enforcement or Designee prior to issuance of any demolition or grading permits for review and approval.

With implementation of the above-referenced mitigation measures, consistent with the mitigation identified in Section 3.1 Cultural Resources of the SEIR (refer to MM CUL-1.1 through 1.3), the proposed project would result in a less than significant groundborne vibration impact.

The closest buildings of standard conventional construction, the Axis Condominium Building (38 North Almaden Boulevard) and Comerica Bank (333 West Santa Clara Street), are both located approximately 60 feet from the project site. At these distances, vibration levels would be up to 0.08 in/sec PPV or less, which is below the 0.2 in/sec PPV threshold for normal buildings. There are no buildings of standard convention construction located within 25 feet of the project site.

At these locations, and in other surrounding areas where vibration would not be expected to cause structural damage, vibration levels may still be perceptible. As with any type of construction, however, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration would be less than significant with incorporation of MM CUL-1.1 through 1.3.

Impact NOI-3:	The project would not be located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not expose people residing or working in the project area to excessive noise levels. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is not located within the vicinity of a private airstrip.

Norman Y. Mineta San José International Airport is located approximately 1.7 miles northwest of the project site. The project site is located within the AIA and the City's projected 2027 65 dB CNEL noise contour. Future aircraft noise levels would reach 68 dBA CNEL, which is compatible with the proposed land use. The General Plan FEIR (as amended) concluded that implementation of General Plan policies and compliance with the local airport land use plans would reduce program-level aircraft noise impacts to a less than significant level.

4.13.4 Existing Noise Conditions Affecting the Project

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 the environment on a project 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 or groundborne vibration 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), however, require 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 and Interior Noise Impacts to the Project

The existing noise environment at the project site results primarily from vehicular traffic on surrounding streets, aircraft approaching or departing from the Norman Y. Mineta San José International Airport, and neighboring mechanical equipment.

As described previously, noise in the project area is dominated by vehicular traffic along West Santa Clara Street and SR 87. The Downtown Strategy 2040 FEIR estimate noise levels in the project area to reach approximately 70-75 dBA. According to the City's current and projected aircraft noise contours for the Norman Y. Mineta San José International Airport, the project site is, and will remain exposed to an aircraft noise level of 65 DBA CNEL.

According to the City's Land Use Compatibility Guidelines, a noise exposure above DNL 75 dBA is considered "unacceptable" for hotel development and new development "should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies". A noise exposure between DNL 70 and 75 dBA is considered "conditionally acceptable" and "specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design".

The proposed hotel development on the project site would be subject to the interior noise level objective of 45 dBA DNL. In addition, single-event noise sources such as aircraft operations would also be subject to the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms (Policy EC-1.9). Because the project site is within the downtown core, the exterior noise level objective of 60 dBA DNL does not apply to development on the project site.

Based on the analysis in Appendix F of this SEIR, interior noise levels within the proposed hotel rooms could exceed the City's 45 dBA DNL noise level standard and the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms. As described below, the proposed project includes measures to reduce interior noise levels to an acceptable level.

Standard Permit Conditions: The following measures would be implemented to reduce interior noise levels to 45 dBA DNL or lower for the hotel rooms and achieve the instantaneous noise objective of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms:

- A site-specific noise analysis by an acoustical consultant shall be required to verify consistency with the City's noise standards and identify necessary design features and noise reduction measures, based on projected General Plan traffic volumes. Projections of future noise exposure would also take into account existing and planned commercial/industrial operations and transit facilities.
- Where exterior day-night average noise levels are 60 to 70 dBA DNL, interior noise levels can typically be maintained below 45 dBA DNL with the incorporation of adequate forced air mechanical ventilation systems in the rooms, which allow guests the option of controlling noise by keeping the windows closed. In areas with exterior noise levels exceeding 70 dBA

DNL, the inclusion of windows and doors with high Sound Transmission Class (STC) ratings may also be necessary to meet the interior noise standard of 45 dBA DNL.

4.14 POPULATION AND HOUSING

The population of San José was estimated to be approximately 1,046,079 in January 2017 with an average of 3.21 persons per household.[42] As of January 2017, the City has approximately 332,574 housing units.[43] The City's population is projected to reach 1,445,000 with 472,000 households by the year 2040.[44]

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build-out under the General Plan.

4.14.1 Impact Discussion

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

Similar to the site development evaluated in the General Plan FEIR (as amended), and Downtown Strategy 2040 FEIR, the proposed project would result in less than significant population and housing impacts, as described below.

Impact POP-1:	The project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located within the incorporated limits of the City of San José and development of the project site would not result in an expansion of urban services or the pressure to expand beyond the City's existing Sphere of Influence.

[42] City of San José. "Population." Available at: http://www.sanjoseca.gov/index.aspx?nid=2044. Accessed: October 2, 2018.
[43] Ibid.
[44] City of San José. "Projections of Jobs, Population and Households for the City of San José." August 2008. Available at: http://www.sanjoseca.gov/DocumentCenter/View/3326. Accessed October 2, 2018

The project would employ approximately 85 full time employees and 15 part time employees, which would not substantially contribute to the size of the workforce. The project would not induce growth in an area of San José where such development has not been planned for, or where such development does not already exist. The development of the site is accounted for the City's General Plan and Downtown Strategy 2040, therefore, the project would not induce unplanned housing and population growth.

Impact POP-2:	The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently a parking lot and, therefore, would not displace people or housing upon implementation.

4.15 PUBLIC SERVICES

4.15.1 Setting

4.15.1.1 *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 public services policies are applicable to the proposed project.

Envision San José 2040 Relevant Public Services Policies	
Policies	**Description**
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
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.

4.15.1.2 *Fire Service*

Fire protection services for the project are provided by the San José Fire Department (SJFD). SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 1, located at 225 North Market Street. The physical distance between the project site and Station No. 1 is approximately 0.5 mile.

The Envision San José 2040 General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

4.15.1.3 *Police Protection Service*

Police protection services for the project site are provided by the SJPD, which is headquartered at 201 West Mission Street. The physical distance between the project site and SJPD is approximately two miles.

The Envision San José 2040 General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes of less for 60 percent of all Priority 2 (nonemergency) calls.

4.15.1.4 *Schools*

The project site is located within the San José Unified School District (SJUSD).

4.15.1.5 *Parks*

The City provides and maintains developed parkland and open space to serve its residents. Residents of San José are served by regional and community park facilities, including regional open space, community and neighborhood parks, playing fields and trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public park to the project site is Arena Green East, located at 340 West. St. John Street, approximately 0.3 miles west of the project site.

4.15.1.6 *Libraries*

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library System consists of one main library and 22 branch libraries. Residents of the downtown area are served by the Dr. Martin Luther King Jr. Library. The physical distance between Dr. Martin Luther King Jr. Library and the project site is approximately 0.60 mile.

4.15.2 Impact Discussion

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

Similar to the site development evaluated in the General Plan FEIR (as amended), and Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

4.15.3 Impact Discussion

Impact PS-1:	The project would not 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 fire protection services, police protection services, schools, parks, or other public facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Fire Protection Services

The General Plan EIR (as amended), concluded that planned growth under the General Plan would increase calls for fire protection services. The project is only a small portion of the total growth identified in the Envision San José 2040 General Plan and Downtown Strategy 2040. Implementation of the proposed project would not require the construction of new fire stations, other than those already planned and evaluated programmatically in the Downtown Strategy 2040 FEIR, to meet the City's service goals.

The project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan and Downtown Strategy 2040 FEIR to avoid unsafe building conditions and promote public safety.

Police Protection Services

Planned growth under the Envision San José 2040 General Plan would increase the total population of the City which would increase demand for police protection services. The Downtown Strategy 2040 FEIR concluded that growth in the downtown area of San José would result in an increase in demand for police services, however, the increase in population would not result in demand for services beyond the capabilities of the department.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan and Downtown Strategy 2040 FEIR to avoid unsafe building conditions and promote public safety. The proposed development would not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals.

Schools

The project does not propose to construct residences and, therefore, would not generate new students.

Parks

The project is the construction of a 272-room hotel. The project would not generate a residential population that would increase demand on park facilities. Although hotel patrons may use City parks in the area, they would not place a major physical burden on existing parks that would result in

substantial physical deterioration of these facilities. The project would not result in the need for construction of new facilities.

Other Public Facilities

The project is the construction of a 272-room hotel. The project would not generate a residential population that would increase demand on other public facilities such as libraries and community centers. Although hotel patrons may use libraries and community centers in the area, they would not place a major physical burden on existing facilities that would result in substantial physical deterioration of these facilities. The project would not result in the need for construction of new facilities.

4.16 RECREATION

4.16.1 Setting

The City of San José owns and maintains over 3,500 acres of parkland, including neighborhood parks, community parks, and regional parks.[45] The City also manages 50 community centers, 17 community gardens, and six aquatic facilities. Other recreational facilities include seven public skate parks and 61 miles of interconnected trails.[46] The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The nearest parks to the project site are Guadalupe River Park (Arena Green East), located approximately 0.3 miles northeast of the site.

4.16.2 Impact Discussion

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

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR (as amended), the proposed project would result in less than significant recreational impacts, as described below.

Impact REC-1: The project would not increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project is the construction of a 272-room hotel. The project does not propose residential uses. Although hotel patrons may use City parks, trails, or other recreational facilities in the area, they would not place a major physical burden on existing recreational facilities that would result in substantial physical deterioration of these facilities. The project would not cause substantial physical

[45] City of San José Parks, Recreation, and Neighborhood Services. *Building Community Through Fun 2016 Annual Report*. Available at: https://www.sanjoseca.gov/index.aspx?NID=204

[46] City of San José. Parks, Recreation & Neighborhood Services website – *Fast Facts*. http://www.sanjoseca.gov/documentcenter/view/65881. Accessed March 11, 2019.

deterioration of local, off-site recreational facilities and would not result in the need for construction of new facilities.

Impact REC-2:	The project would not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

As stated above, hotel patrons may use City parks, trails, or other recreational facilities however, the increase in use of these facilities would not place a major physical burden on existing recreational facilities that would result in a substantial physical deterioration of these facilities and would not, therefore, require the construction or expansion of facilities in the area.

4.17 TRANSPORTATION

The following discussion is based, in part, on a Local Transportation Assessment prepared by *Hexagon Transportation Consultants, Inc.* in August 2018. A copy of the report is attached as Appendix G to the SEIR.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

Regional

Metropolitan Transportation Committee

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

Local

Transportation Analysis Policy (San Jose City Council Policy 5-1)

Historically, transportation analysis has utilized delay and congestion on the roadway system as the primary metric for the identification of traffic impacts and potential roadway improvements to relieve traffic congestion. However, the State of California has recognized the limitations of measuring and mitigating only vehicle delay at intersections and in 2013 passed Senate Bill 743, which requires jurisdictions to stop using congestion and delay metrics, such as Level of Service (LOS), as the measurement for CEQA transportation analysis. With the adoption of SB 743 legislation, public agencies will soon be required to base the determination of transportation impacts on Vehicle Miles Traveled (VMT) rather than LOS.

In adherence to SB 743, the City of San José has adopted a new Transportation Analysis Policy, City Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under CEQA based on VMT instead of LOS. The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway vehicle capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses. The new transportation policy aligns with the General Plan, which focuses new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT. All new development projects are required to analyze transportation impacts using the VMT metric and conform to City Council Policy 5-1.

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project. Typically, development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the vicinity.

Therefore, according to the policy, an employment (e.g. office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g. warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are:

1. Small infill projects;
2. Local-serving retail;
3. Local-serving public facilities;
4. Transit supportive projects in Planned Growth Areas with low VMT and high quality transit;
5. Restricted affordable, transit supportive residential projects in Planned Growth Areas with high quality transit;

6. Transportation projects that reduce or do not increase VMT.

The VMT policy does not negate Area Development policies (ADPs) and Transportation Development policies (TDPs) approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

The Circulation Element of the Envision 2040 General Plan contains various long-range goals and policies that are intended to:

- provide a transportation network that is safe, efficient, and sustainable (minimizes environmental, financial, and neighborhood impacts);
- improve multimodal accessibility to employment, housing, shopping, entertainment, schools, and parks;
- create a city where people are less reliant on driving to meet their daily needs; and
- increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips.

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

Envision San José 2040 Relevant Transportation Policies	
Policy	**Description**
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. • Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems. • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located

Envision San José 2040 Relevant Transportation Policies	
Policy	**Description**
	within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. 1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
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.
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-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-8.8:	Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental 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.
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.

Envision San José 2040 Relevant Transportation Policies	
Policy	**Description**
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional Access

State Route 87 (SR 87) is primarily a six-lane freeway (four mixed-flow lanes and two 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 West Santa Clara Street.

Interstate 280 (I-280) extends from US 101 in San José to I-80 in San Francisco. It is generally an east-west oriented eight-lane freeway in the vicinity of downtown San José. Connections from I-280 to downtown San José are provided via a full interchange at Bird Avenue and partial interchanges at Seventh Street (no north on-ramp), at Almaden/Vine (ramps to/from north), Market Street (ramp to south) and Fourth Street (ramp to north).

Local Access

Santa Clara Street is an east-west four-lane street that runs along the south frontage of the project site. It extends as West Santa Clara Street from First Street westward to Stockton Avenue where it transitions into The Alameda. East of First Street, it extends eastward as East Santa Clara Street to US-101 where it transitions into Alum Rock Avenue.

Almaden Boulevard is a north-south one-lane, southbound street between W. Julian Street and W. Santa Clara Street and transitions to a four-lane two-way street south of W. Santa Clara Street. The northbound direction transitions to Notre Dame Avenue north of W. Santa Clara Street. The project proposes a valet drop-off/pick-up area and one loading area driveway along Almaden Boulevard.

Notre Dame Avenue is a north-south two-lane, northbound street between W. Santa Clara Street and W. Julian Street. Notre Dame Avenue provides access to the project site via Carlysle Street and Almaden Boulevard.

Carlysle Street is an east-west two-lane street located north of the project site. It extends from Almaden Avenue from the east to Almaden Boulevard to the west. Carlysle Street provides access to the project site via Almaden Boulevard.

St. John Street is an east-west two-lane street located north of the project site. It extends east from Montgomery Street, merges with Almaden Boulevard underneath SR-87, and continues east through Downtown San Jose. St. John Street provides access to the project site via Almaden Boulevard.

Pedestrian and Bicycle Facilities

In the project vicinity, pedestrian facilities include sidewalks and pedestrian signals at signalized intersections. Sidewalks are provided throughout the project area on both sides of West Santa Clara Street, Almaden Boulevard, and Notre Dame Avenue.

Class II bicycle facilities (striped bike lanes) are provided on Santa Clara Street west of Notre Dame Avenue (along the south project frontage), the extent of San Fernando Street, Park Avenue west of S. Market Street, and Almaden Boulevard south of West St. John Street (along the west project frontage). First Street and Second Street, south of St. John Street, are designated Class III bike paths and provide "sharrow" or shared-lane markings. St. John Street east of Autumn Street and San Carlos Street east of Woz Way are also designated Class III bikeways and provide "sharrow" or shared lane markings. For a map of the locations of nearby bicycle facilities, refer to Figure 4.16-1.

Transit Service

Santa Clara Valley Transportation Authority

The Santa Clara Valley Transportation Authority (VTA) operates bus service in Santa Clara County. The VTA also provides a shuttle service within the downtown area. The downtown area shuttle (DASH) provides shuttle service from the San Jose Diridon Caltrain station to San Jose State University, and the Paseo De San Antonio and Convention Center LRT stations via E. San Fernando and E. San Carlos Streets. The nearest DASH bus stop is located 1000 feet south of the project site at the intersection of E. San Fernando Street and S. Almaden Boulevard.

Caltrain

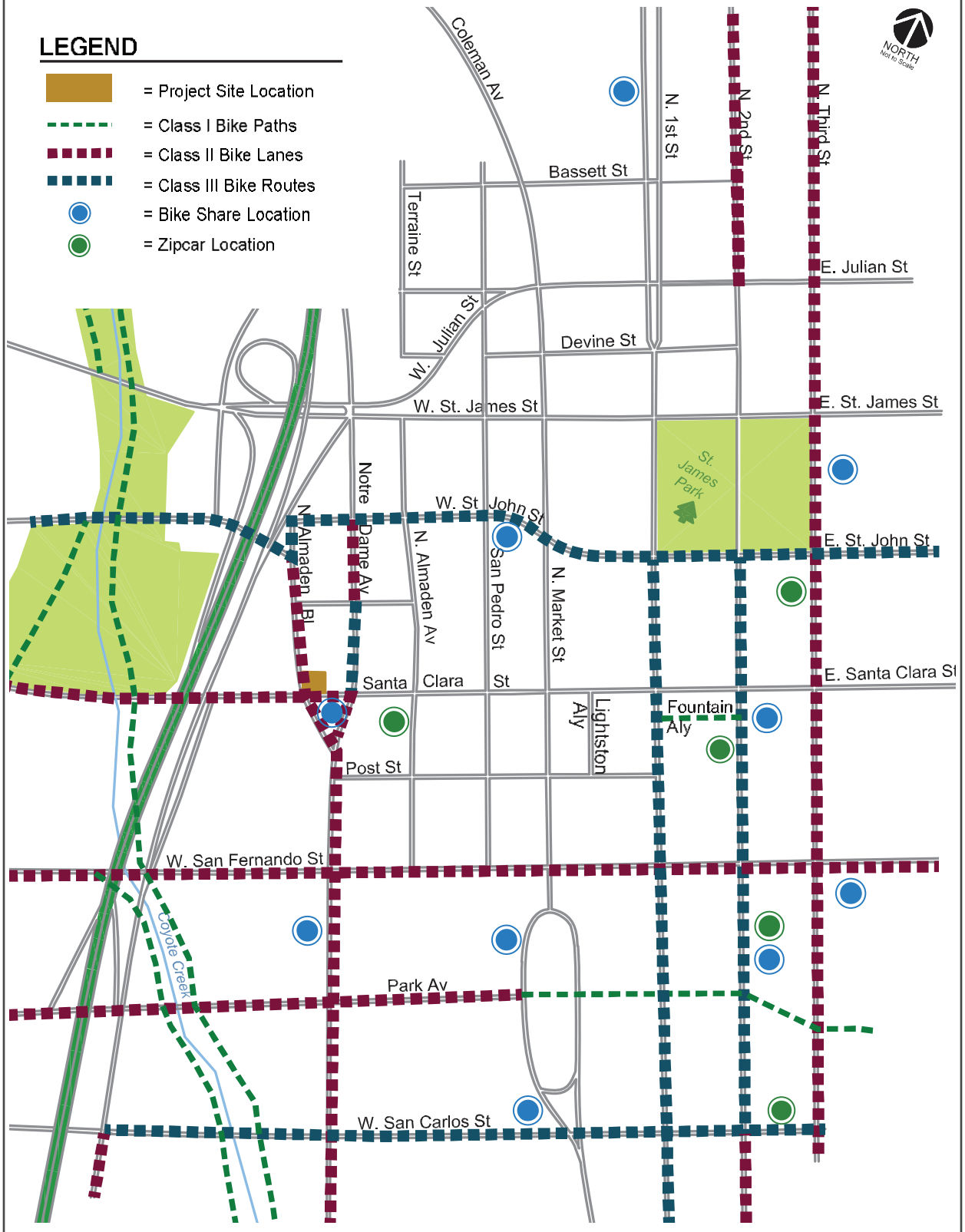
Caltrain provides commuter rail services between San Francisco and Gilroy seven days a week and currently operates 92 weekday trains that carry about 58,500 riders on an average weekday. Trains stop frequently at Diridon Station, approximately 0.5 miles from the site, operates between 4:28 AM and 10:30 PM in the northbound direction and between 6:31 AM and 1:38 AM in the southbound direction.

Altamount Commuter Express Service (ACE)

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

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San José, Santa Clara, Fremont,



BICYCLE FACILITY LOCATIONS | FIGURE 4.16-1

Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San José Diridon Station eight times on weekdays between approximately 7:40 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times on weekdays between 6:40 AM and 7:15 PM.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?	☐	☐	☐	☒	☐
2) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
4) Result in inadequate emergency access?	☐	☐	☐	☒	☐

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

Impact TRN-1:	The project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

As described in *Section 4.16.1.1* above, there are adequate pedestrian facilities within the project area including those along the project's Almaden Boulevard and West Santa Clara Street frontages. In addition, Ford GoBike and Zipcar stations are provided throughout the Downtown area. A Bike Share station is directly across from the project site, along the south side of West Santa Clara Street. The nearest Zipcar location is located just 500 feet east of the project site at the southwest corner of the Almaden Avenue/West Santa Clara Street intersection. Overall, the existing pedestrian facilities have connectivity and provide hotel patrons with a connection between the project site and surrounding land uses, including transit facilities. Implementation of the proposed project would likely increase pedestrian traffic in the immediate project area but would not exceed the capacity of the existing facilities or preclude the construction of planned improvements.

The project site is well served by various existing bicycle facilities including Class II bicycle facilities with buffered bike lanes within the project vicinity. Implementation of the project would not preclude the construction of planned bicycle facilities.

The project is in close proximity to major transit services and would provide the opportunity for multi-modal travel to and from the project site. The pedestrian and bicycle facilities located adjacent to the project site provide access to major transit stations. On the Santa Clara Street project frontage, approximately 75 feet (three parking spaces) of on-street parking space would be provided with the conversion of the existing bike lane to a sharrow.

Implementation of the proposed project would not interfere with the construction of planned transit facilities and increased transit usage resulting from the project would not exceed the capacity of the existing system.

Impact TRN-2:	The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

As previously mentioned above, Policy 5-1 has established screening criteria that would be exempt from VMT analysis such as Planned Growth Area with Low VMT and High-Quality Transit. Within the screening criteria, projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5-mile of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum FAR of 0.75 for office projects or components or a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike or pedestrian infrastructure.

Per the City's Transportation Policy 5-1, the traffic impacts of the proposed project were analyzed using the City's VMT methodology. The proposed project is within the Downtown growth boundary and is within a low VMT per capita area for commercial uses based upon Figure 3.15-6 of the Downtown Strategy 2040 FEIR.

The Downtown Strategy 2040 FEIR analyzed the potential transportation impacts that could occur from the addition of 4,000 residential units and 3,000,000 square feet of office space to the downtown area using the methodology outlined in the City's Transportation Analysis Handbook, per City Council Policy 5-1. The VMT data for the Downtown Strategy 2040 was calculated using the City's Travel Demand Forecasting (TDF) model. It was determined in the Downtown Strategy 2040 FEIR that future development in the downtown is expected to result in low VMT. However, there are limited areas that were identified in the FEIR with potential to result in VMT above the levels set by Policy 5-1 (indicated on Figures 3.15-6 and 3.15-7 in the Downtown Strategy 2040 FEIR). The proposed project site is not located within an area that has the potential to exceed acceptable VMT

levels and would not require additional VMT analysis to determine consistency with adopted VMT policies.

As the project is within the downtown core, within the capacity analyzed in the Downtown Strategy 2040 FEIR, and in proximity to other modes of alternative transportation, the project would have a less than significant VMT impact.

Impact TRN-3:	The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **[Same Impact as Approved Project (Less than Significant Impact)]**

Site Access

The project does not propose a driveway to the site. Instead, the project would construct on-street valet drop-off/pick-up zones located along the Almaden Boulevard and Santa Clara Street project frontages. Access to the valet drop-off/pick-up zone on Almaden Boulevard would be constrained due to the one-way operations of streets that provide access to the project site. Inbound traffic from the south would utilize northbound-only Notre Dame Avenue and Carlysle Street to access Almaden Boulevard; from the north, inbound traffic will utilize West St. John Street to access Almaden Boulevard.

The only outbound route from the valet drop-off/pick-up zone on Almaden Boulevard is via a southbound left-turn lane on Almaden Boulevard out to eastbound Santa Clara Street.

Since the completion of the transportation analysis, supplementary analysis was completed for additional valet parking. The project proposes a total of five valet parking spaces (two on Almaden Boulevard and three on Santa Clara Street). The additional valet spaces along Santa Clara Street would result in a change in trip assignment outlined in the LTA, but the additional trips on Santa Clara Street would be minimal and would not change the conclusions of the LTA.

An existing buffered bike lane that extends approximately 75 feet back from the Almaden Boulevard/Santa Clara Street intersection restricts project traffic from accessing the southbound right-turn lane. The bike lane buffer consists of only pavement markings and no physical barriers exist to prevent drivers from crossing over the bike lane.

Furthermore, the project shall be conditioned to install lane delineators on Almaden Boulevard at the bike lane buffer to ensure that project traffic does not cross the bike lane to access the southbound right-turn lane to prevent drivers from crossing over the bike lane. This would reduce project impacts to bicycle facilities in the immediate area.

Truck Site Access

Based on the City of San José off-street loading standard for hotel developments in the Downtown Area (20.70.440), the project is required to provide at least one off-street loading space. The project would provide one off-street loading space accessible from Almaden Boulevard located north of the

valet drop-off/pick-up zone and, therefore would, meet the requirement for the number of off-street loading spaces.

Valet Drop-off/Pick-up Zone Operations

The proposed valet drop-off/pick up zones are located along Santa Clara Street and Almaden Boulevard. There are currently two on-street metered parking spaces on Almaden Boulevard that would need to be eliminated to accommodate the valet drop-off/pick-up area. Approximately 40 feet of space would be provided along the project's frontage with the parking removal. Thus, storage for no more than two vehicles would be provided.

Based on the estimated trip generation of 272 rooms, a maximum of 69 inbound trips would need to be served at the valet drop-off/pick-up zone during the peak hours, or approximately one to two vehicles every minute. The number of vehicles that can be served at the valet drop-off/pick-up zone would depend on the proposed valet parking operations. Based on the LTA, additional valet parking analysis, and peer review for the valet parking requirements, it was estimated that approximate 10 valet spaces may be required. As the project may not be able to accommodate that many valet parking spaces, however, it was determined that adequate valet staff (three to four) allow for a reduction of valet spaces.[47] In addition, vehicles would not be retrieved in advance of guests being present at the valet area. Given the limited storage space for valet operations along Almaden Boulevard and Santa Clara Street, the valet area shall not be used for transportation network companies, such as Uber, Lyft, etc. while waiting for customers.

The Valet Parking Operations report explored different routes from the project site to the off-site San Pedro Square Market Parking Garage, determining the time it would take for each route. The report concluded that 10 valet parking attendants would be required for operation. The project is proposing 10 valet parking attendants as part of the operation and would be further conditioned to do so by the City.

Impact TRN-4:	The project would not result in inadequate emergency access. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site fronts directly onto two public roadways, West Santa Clara Street and Almaden Boulevard, which would provide adequate access to the site for emergency vehicles. There would be no restrictions to emergency vehicles accessing the site. The final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact.

[47] Communication with Robert Del Rio, Hexagon Transportation Consultants, Inc. on July 23, 2019 via phone call and email.

4.17.3 Operational Transportation Issues Not Covered Under CEQA

4.17.3.1 *Intersection Operations – Queueing*

A vehicle queuing analysis was completed for high-demand movements at the study intersections evaluated in the project's LTA. The study intersections were selected based on the number of projected project trips at utilizing left-turning lanes at surrounding intersections.

The queuing analysis shows that the eastbound left-turn movement at the Notre Dame Avenue and Santa Clara Street intersection currently experiences a queue that exceeds the available storage capacity under existing conditions and would continue to do so under future conditions. The proposed project would increase the queue for the eastbound left-turn movement by two vehicles during the AM and PM peak hours. The removal and/or alteration of improvements intended to encourage the use of multi-modal travel to accommodate vehicular demand is not consistent with General Plan goals.

Additionally, the project's proximity to major transit services and bicycle facilities along Santa Clara Street and Almaden Boulevard would provide for and encourage the use of multi-modal travel options and reduce the use of single-occupant automobile travel. It is expected the that actual project trips generated from implementation would be less than the trips calculated in the LTA based on the reasons described above and from the planned enhancement of the multi-modal transportation system within the downtown area.

Transportation Demand Management

To reduce VMT and vehicle trips generated by the project, and to reduce the operational issues identified above, the LTA recommends development and adoption of a Transportation Demand Management (TDM) Program. The LTA included the following possible measures for inclusion in a TDM plan.

- The project shall develop and implement a Transportation Demand Management Program to achieve a 25 percent reduction in vehicle trips. The TDM Program may include, but would not be limited to, the following, or alternative equipment, elements to reduce vehicle trips:
  - *Free Guest Shuttle Services* to destinations throughout Downtown San José and Mineta International Airport
  - *Shared on-site bicycles* for guest use
  - *Eco Pass or Clipper Card* for all employees, providing free rides on Santa Clara County's local transit agency, the Santa Clara Valley Transportation Authority (VTA)
  - *Centrally-Located Kiosks* with transit schedules, bike and transit maps, and other commute alternative information
  - On-site TDM coordinator and services

With implementation of a project specific TDM plan, the project would reduce vehicle trips.

Since the completion of the transportation analysis, the project has proposed a TDM plan that is under review for the purposes of the parking reduction requirements (see discussion below). The proposed TDM plan includes some of the same measures as the recommendations in the LTA

including free VTA SmartPass for employees and an on-site TDM coordinator. The project also proposes employee parking incentives and annual monitoring of the plan.

4.17.3.2 *Parking*

Based on the City of San José Downtown Zoning Regulations (Municipal Code 20.70.100), the project is required to provide 0.35 off-street parking spaces per hotel room which equates to 96 required spaces. Since the completion of the LTA, a TDM plan has been proposed as part of the project. The City allows a 50 percent reduction in parking with a TDM plan and an additional 15 percent reduction per the downtown parking reduction allowance. With these allowed reductions, the required parking spaces would be reduced to 41 spaces.

The project would provide the 41 required off-street guest parking spaces in the existing City-owned San Pedro Market Garage through a Parking Agreement with the City for up to 30 years. The off-site parking would operate consistent with the Valet Parking/Operation plan described above. With the 41 spaces proposed, the project is consistent with the parking requirements under the Municipal Code. Furthermore, as the project is within the downtown core, the City's and State's policies and bills to reduce VMT by encouraging land use development near multiple modes of transportation, the reduction in parking and the duration of up to 30 years is adequate for the foreseeable lifetime and operation of the project.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1.1 *Regulatory Framework*

Assembly Bill 52

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources[48]
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

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 tribal cultural resources policies are applicable to the proposed project.

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
Policy	**Description**
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

[48] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
Policy	**Description**
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.

4.18.1.2 *Existing Conditions*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay Area. The customary way of living, or lifeway, of the Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California Mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. Based on a literature review of the project area, no prehistoric era archaeological sites have been recorded within the project area.

4.18.2 **Impact Discussion**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

During preparation of the Downtown Strategy 2040, the City sent a letter to the NAHC seeking information from the sacred lands files and the names of Native American individuals and groups that would be appropriate to contact for the Downtown Strategy Project, consistent with the requirements of SB18 and AB52. In response to the City's notification to tribal representatives of the proposed Downtown Strategy 2040 and related 2040 General Plan Amendments, a tribal representative for the Ohlone Indian Tribe initiated consultation with the City on the proposed 2040 General Plan Amendments on June 7, 2018. The result of the request for consultation was the establishment of a framework for development-project-level literature reviews, field work, and treatments for potential resources, including human remains for application to the future projects in Downtown when such project involve ground-disturbing activities. This framework is outlined in *Section 3.1 Cultural Resources of the SEIR*.

Impact TCR-1:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). [Same Impact as Approved Project (Less than Significant Impact)]

The project site is located near the Guadalupe River and within a generally sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Based on available data, there are no recorded tribal cultural objects in the project area. Any subsurface artifacts found on-site would be addressed consistent with mitigation measures MM CUL-2.1 through MM CUL-2.5. Therefore, the proposed project would have a less than significant impact on tribal cultural resources.

Impact TCR-2:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **[Same Impact as Approved Project (Less than Significant Impact)]**

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. The Notice of Preparation was sent to all applicable tribes, but no response was received.

Based on available data, there are no recorded tribal cultural objects in the project area. Any subsurface artifacts found on-site would be addressed consistent with mitigation measures MM CUL-2.1 through MM CUL-2.5. Therefore, the proposed project would have a less than significant impact on tribal cultural resources.

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Setting

4.19.2 Regulatory Framework

4.19.2.1 *Applicable Plans, Policies, and Regulations*

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.

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 utilities and service system policies are applicable to the proposed project.

Envision San José 2040 Relevant Utilities and Service Systems Policies	
Policy	**Description**
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	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-3.10	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).

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.

4.19.2.2 *Water Services*

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the San José Water Company (SJWC). The nearest recycled water line is at N. 12th Street, approximately one mile east of the project site.

The project site is currently developed with a private parking lot. The site does not contain structures or landscaping and does not generate a demand for water.

4.19.2.3 *Storm Drainage*

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. As discussed in *Section 4.9 Hydrology and Water Quality*, an 18-inch concrete storm pipe is located in West Santa Clara Street.[49] Storm drain lines in the project area are provided and maintained by the City of San José Department of Transportation. Runoff from the site discharges to the Guadalupe River, approximately 850 feet west of the project site, and is ultimately conveyed to the San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

The existing project site is entirely impervious.

4.19.2.4 *Wastewater/Sanitary Sewer System*

Wastewater from the City is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[50] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten

[49] City of San José. Utility Viewer. Available at: https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=0d463f017c8a48a7b73b2d35bd7381f1. Accessed on: July 26, 2018.
[50] City of San José. "San José-Santa Clara Regional Wastewater Facility." Available at: http://www.sanjoseca.gov/?nid=1663. Accessed October 2, 2018.

percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment.

There is an existing 18-inch sewer line in West Santa Clara Street that connects to an 18-inch sewer line in North Almaden.[51] Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has 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.[52]

4.19.2.5 *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. 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). The NISL has a planned closure of 2039. The City has an annual disposal allocation for 395,000 tons per year. As of May 2018, NISL had approximately 16.9 million cubic yards of capacity remaining.[53] The project site does not currently generate solid waste.

4.19.3 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐

[51] *Ibid.*
[52] City of San José. *San José/Santa Clara Regional Wastewater Facility.* Available at: http://www.sanjoseca.gov/index.aspx?NID=1663. Accessed on: July 25, 2018.
[53] Kelapanda, Achaya. Environmental Manager, Newby Island Sanitary Landfill. Personal communications. May 17, 2018.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐
4) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

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

Impact UTL-1:	The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project would utilize existing water infrastructure, dispose of wastewater at the RWF, convey stormwater via the City's existing drainage system, and connect to existing utility lines in the vicinity of the site for electricity, natural gas, and telecommunication services.

The proposed project would connect to the City's existing sanitary sewer system. The project would comply with all applicable Public Works requirements to ensure sanitary sewer and water mains would have capacity for water and sewer services required by the proposed project. The 2040 General Plan PEIR concluded that implementation of General Plan policies requiring future development to provide adequate sewer system capacity would reduce project-level impacts to a less than significant level.

The proposed project would dispose of wastewater at the RWF, a wastewater treatment facility which has adequate capacity to accommodate the increased demand created by the project. No relocation or construction of new treatment facilities would be required to serve the proposed project.

The proposed project does not include the construction of any additional sewer mains or sewer lines to the City's system. Installation of new storm and sanitary sewer laterals would occur during grading of the site and would result in minimal impacts. Existing utility lines would be utilized by the project for electric power and natural gas services.

Impact UTL-2:	The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **[Same Impact as Approved Project (Less than Significant Impact)]**

It is estimated that the project would have a water demand of approximately 36,829 gallons per day. Potable water would be provided to the proposed project by SJWC and would be sourced primarily from groundwater and supplemented by purchased water deliveries from the SCVWD. The Santa Clara Subbasin, one of two groundwater basins within the Urban Growth Boundary of the City, is not in a state of overdraft or at risk of overdraft under current scenarios. The Water Supply Assessment (WSA) prepared by the SJWC for the Downtown Strategy 2040 determined that there are sufficient supplies to serve the development covered by the Downtown Strategy 2040, including the proposed project.

The project site is not located within one of the Santa Clara Valley Water District's 18 major groundwater recharge systems. There are no groundwater infiltration sites identified in the Downtown area and as such, the project would not prevent groundwater infiltration and recharge into either of the basins managed by the SCVWD.

The proposed development would result in an increase in water usage compared to the current use of the site. The proposed project is, however, consistent with the development assumptions in the General Plan, the Downtown Strategy 2040, and the Urban Water Management Plan. Therefore, the project would not significantly impact the City's water supply.

Impact UTL-3:	The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. **[Same Impact as Approved Project (Less than Significant Impact)]**

The RWF currently has an excess capacity of 38.8 mgd of dry weather flow available to service the City of San José. Planned build out under the General Plan is estimated to result in a dry weather flow of 30.8 mgd, which would not exceed the capacity of the RWF. The proposed project is estimated to generate 36,829 gpd of wastewater.[54] The wastewater demands of the proposed project would not result in an exceedance of wastewater treatment capacity at the RWF. Increased demand at the RWF created by planned development under the General Plan is expected and accounted for in long term infrastructural planning by the City of San José and its partner agencies. The proposed project is consistent with planned development analyzed in the 2040 General Plan FEIR, SEIR, and

Addenda thereto and the Downtown Strategy 2040 FEIR; therefore, the project would not result in an unanticipated increase in wastewater treatment requirements at the RWF.

The construction of new wastewater treatment facilities would not be required as a result of the proposed project. Environmental impacts from the construction of new or expanded facilities would be avoided by utilization of existing facilities, which are currently well below capacity.

The projected wastewater demand of the project, by itself, would not result in an exceedance of capacity at the RWF. A determination of excess treatment capacity at the RWF takes into account current uses within the City of San José and within the treatment plant's service boundaries. The treatment capacity of the RWF would not be exceeded as a result of the proposed project or the project's contribution to existing treatment commitments.

Impact UTL-4:	The project would not generate solid waste in excess of state or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. **[Same Impact as Approved Project (Less than Significant Impact)]**

The General Plan FEIR (as amended) concluded that the increase in waste generated from build out of the General Plan would not exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be minimized with ongoing implementation of the City's Zero Waste Strategic Plan. This Plan, in combination with existing regulations and programs, would ensure that the build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The Downtown Strategy 2040 FEIR concluded that there is sufficient capacity at local landfills to serve the development resulting from the implementation of the Downtown Strategy, assuming new development participates in construction and demolition debris recycling (where applicable) and includes recycling services.

The proposed project would intensify the uses on the site and increase the amount of solid waste generation compared to the existing conditions; however, the project is consistent with the development assumptions in the General Plan and Downtown Strategy. Given the City's existing recycling and yard waste collection services, commercial uses divert approximately 70 percent of their waste stream from being landfilled. Based on a standard rate of 0.55 tons per year per hotel room, the project would generate approximately 150 tons of solid waste per year.[55] Given NISL's existing, remaining capacity (16.9 million cubic yards), the City's contract with NISL, the existing amount of waste the City disposes at the landfill, and the amount of waste the project is estimated to generate, there is sufficient capacity within the City's contract with NISL to serve the proposed project.[56]

[55] CalEEMod User's Guide. Appendix D – Default Data Tables. October 2017. http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4.
[56] Kelapanda, Achaya. Environmental Manager, Newby Island Sanitary Landfill. Personal communications. May 17, 2018.

Based on the above discussion, the proposed project would result in the same less than significant impact on solid waste disposal capacity as discussed in the General Plan FEIR (as amended) and the Downtown Strategy 2040 FEIR.

Impact UTL-5:	The project would not be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste. **[Same Impact as Approved Project (Less than Significant Impact)]**

Project implementation would result in the generation of approximately 6,786 pounds of solid waste from the proposed operations. As described in response f), solid waste generated would be collected by Garden City Sanitation and brought to be disposed of at the Newby Island Landfill. Garden City Sanitation and Newby Island are required to comply with local, state, and federal statutes regulations related to solid waste. Thus, the project would comply with the applicable local, state, and federal statutes and regulations.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

The proposed project is located in downtown San José, in an area which has not been designated as a very high fire hazard severity zone on CalFire maps.[57]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **[Same Impact as Approved Project (No Impact)]**

[57] CalFire. "California Fire Hazard Severity Zone Map Update Project". Accessed February 20, 2019. http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

4.21.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐
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)?	☐	☐	☐	☒	☐
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐

Impact MFS-1: The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. **[Same Impact as Approved Project (Less than Significant Impact)]**

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified Standard Permit Conditions and mitigation measures. As discussed in *Section 4.4 Biological Resources*, the project would implement MM BIO-1.1 to reduce potential disturbance to nesting birds and raptors in the project vicinity during project construction activities and would implement the Standard Permit Condition to comply with the Santa Clara Valley Habitat Plan.

Impacts related to Cultural Resources are discussed as the subject of the SEIR and were not evaluated as part of this Initial Study.

The project would have a significant land use impact from increased shading as discussed in the Supplemental EIR.

Other than cultural resources, the project would not result in new or more significant impacts than identified in the Downtown Strategy 2040 FEIR and General Plan FEIR (as amended).

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed development would result in temporary air quality, water quality, biology, and noise impacts during construction. With the implementation of the identified mitigation measures, Conditions of Project Approval, and Standard Permit Conditions, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. As the identified impacts are temporary and would be mitigated, the project would not have cumulatively considerable impacts on air quality, water quality, biology, and noise in the project area.

Consistent with the Conditions of the Santa Clara Valley Habitat Plan, the project would comply with all applicable Conditions of the SCVHP and would pay a Nitrogen Deposition Fee, commensurate with the number of trips generated by the proposed hotel.

The project would have a less than significant impact on aesthetics, geology and soils, hazards and hazardous materials, hydrology and water quality, population and housing, recreation, and utilities, and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forest resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project would contribute to the significant cumulative air quality, GHG, and traffic-related noise impacts that would occur under full build out of the Downtown Strategy 2040 and the Envision San José 2040 General Plan. The project would not, however, result in any new or more significant cumulative impacts than the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans.

Impact MFS-3:	The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently used as a private parking lot. Urban development, including the proposed uses, are consistent with the long-term goals for the site outlined in the Envision San José 2040 General Plan and the Downtown Strategy 2040. 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 to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to redevelop an infill location in downtown San José and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals (such as increased building energy efficiency) for this downtown site. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy. The proposed building would be designed to achieve minimum LEED certification consistent with San José Council Policy 6-32. LEED certification entails consideration and incorporation of a variety of design features to reduce energy use and conserve water, including community design and planning, site design, landscape design, building envelope performance, and material selections.

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.

SECTION 5.0 REFERENCES

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

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
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David Keyon, *Principal Planner - Environmental Review*
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