



Draft Supplemental Environmental Impact Report

Garden Gate Tower

SP18-001 and T18-001
SCH# 2018092072

JULY 2019



**NOTICE OF AVAILABILITY OF
A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (EIR)
AND PUBLIC COMMENT PERIOD**

A Draft Environmental Impact Report (DEIR) for the **Garden Gate Tower**. The project includes development of a multifamily apartment building with ground floor neighborhood-oriented retail with two design options proposed: (1) Option 1: Traditional Multi-Family Development and (2) Option 2: Co-Living Community Option.

Option 1: Traditional Multi-Family Development – Development of a multi-family apartment building with up to 290 residential units and approximately 4,840 square feet of ground floor neighborhood oriented retail area. The total building area is approximately 513,333 square feet.

Option 2: Co-Living Community Option – Development of up to 850 bedrooms in a Co-Living Community configuration with a combined total of approximately 510,738 square feet (including open space areas). The ground level will include approximately 6,000 square feet of retail, lobby and a loading area.

Both options propose a development of a 27-floor building with a maximum height of approximately 283 feet. The buildings would have a similar footprint and design with the exception of some minor differences in the ground floor layout. Both options would also include the demolition of an existing two-story residential building (on the City's Historic Resources Inventory), façade treatment to an existing single-story brick office building, and relocation of an on-site neon sign to the roof of the proposed development.

File Nos.: SP18-001 & T18-001. **Location:** The 0.42-acre project site is comprised of two parcels (APNs 472-26-090 and 472-26-089) located at the intersection of South First Street and East Reed Street, at 600 South First Street in downtown San José. **Council District:** 3.

The proposed project will have potentially significant environmental effects with regard to biological resources, hazards and hazardous materials, noise, cultural resources, and cumulative cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of toxic sites.

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

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

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

The public review period for this Draft EIR begins on **July 15, 2019 and ends on August 29, 2019**. Written comments must be received at the Planning Department by **5:00 p.m. on August 29, 2019**, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Krinjal Mathur in the Department of Planning, Building and Code Enforcement at 408-535-3844, via e-mail: krinjal.mathur@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement). For the official record, please your written comment letter and reference File Nos. SP18-001 & T18-001.

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

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

7/5/19

Deputy



Date

Garden Gate Tower

Draft Supplemental Environmental Impact Report (SEIR)

File Nos. SP18-001 and T18-001

SCH# 2018042072

Prepared by



July 2019

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SUMMARY

Project Overview

The project proposes construction of residential building (27 stories) with ground floor neighborhood-oriented retail on an approximately 0.42-acre property located on the southeast corner of East Reed Street and 1st Street in the City of San José, Santa Clara County California. Two design options (Option 1: Traditional Multi-Family Development and Option 2: Co-Living Community Option) are proposed in order to provide flexibility in the number and design configuration of the residential units proposed and in order to meet increased market demand for a broader typology of multifamily residential living options (see *Project Components* below).

The following is a summary of the significant impacts and mitigation measures addressed within this SEIR. The project description and full discussion of impacts and mitigation measures can be found in the following chapters of this SEIR.

Summary of Significant Impacts

The following table, Table S-1: Summary of Significant Impacts and Mitigation Measures, summarizes the significant effects of the project on the environment and mitigation measures are identified to reduce the effects to a less than significant level, where applicable and feasible. A significant effect on the environment means a substantial, or potentially substantial, adverse change on the environment. Impacts that are less than significant are not described in this summary and can be found in the text of this Supplemental Environmental Impact Report (SEIR), except those less than significant impacts that have been further reduced by mitigation measures to some extent. A complete description of the project and of its impacts and proposed mitigation measures can be found in the text of the SEIR and Appendix B (Initial Study), which follow this summary.

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, the Initial Study, included as part of the Supplemental Environmental Impact Report (SEIR), tiers from the certified Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (SCH#2003042127). Where appropriate, the summary below notes where the conclusions regarding significant impacts are the same as those in the Downtown Strategy 2040 FEIR (e.g., [Same as Approved Project]); the program level project that evaluated development and redevelopment in Downtown San José and which includes the project site.

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Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|---|---|
| Cultural Resources- Section 3.2 | | |
| <p>Demolition of the Pallesen Apartment building, a Candidate City Landmark eligible structure, and City Center Motel Sign, a distinctive example of Roadside Vernacular architecture would be a significant impact.</p> | <p>MM CUL-1: Pallesen Apartments Demolition</p> <p>Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the applicant shall prepare and submit, to the satisfaction of the Director of Planning, Building and Code Enforcement in coordination with the City’s Historic Preservation Officer, a historic preservation plan demonstrating that the following actions have been satisfied.</p> <p><u>Documentation:</u> The structure shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey(HABS) consistent with the <i>Secretary of the Interior’s Standards for Architectural and Engineering Documentation</i> and shall consist of the following components:</p> <ul style="list-style-type: none"> A. Drawings – Prepare sketch floor plans. B. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. C. Written Data – HABS written documentation in short form. <p>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. Department of Parks and Recreation 523 forms prepared for the project (included in Appendix A of Appendix F of the SEIR) can be used to fulfill the requirements for the written data report.</p> | <p>Significant and Unavoidable</p> |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|---|-------------------------------|
| | <p>The required documentation shall be filed with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City’s Historic Preservation Officer.</p> <p><u>Relocation by the Applicant and/or a Third Party:</u> Prior to the issuance of any demolition permits, the project applicant, or any interested third party shall be required to advertise the availability of the structure for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the City’s Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.</p> <p>If the project applicant or third party agrees to relocate the structure the following measures must be followed:</p> <ol style="list-style-type: none"> 1. The City’s Director of Planning, Building and Code Enforcement, based on consultation with the City’s Historic Preservation Officer, must determine that the receiver site is suitable for the building. 2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected | |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|---|-------------------------------|
| | <p>and preserved. The documentation shall be reviewed and approved by the City’s Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.</p> | |
| | <p>3. To protect the building during relocation, the project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.</p> | |
| | <p>4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the <i>Secretary of the Interior’s Standards for the Treatment of Historic Properties</i>. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.</p> | |
| | <p>Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The project applicant shall submit a memo report to the City’s Historic Preservation Officer documenting the relocation.</p> | |
| | <p><u>Salvage</u>: If the applicant and/or no third party agrees to relocate the structure, the structure shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City’s Historic Preservation Officer. The project applicant must provide evidence to the</p> | |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|--|-------------------------------------|
| <p>The partial demolition of the Pallesen Building will compromise the integrity of the building as an individual structure and therefore diminish its eligibility as a historic resource.</p> | <p>City’s Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.</p> <p>MM CUL-2: Pallesen Building Façade Preservation</p> <p>The project applicant shall retain a historic consultant to prepare a Preservation Plan on the retention of the Pallesen Building façade which includes the street facing wall and complete storefront assembly. The Preservation Plan shall include:</p> <ul style="list-style-type: none"> • Existing conditions study which establishes the baseline conditions of the building. Documentation shall include written descriptions and visual illustrations, including those physical characteristics of the resources that convey its historic significance (Retention of the original character-defining features) • Structural engineering plans to show how the structural integrity of the building will be maintained during the move and how the façade will be seismically reinforced. • Protective fencing and other methods shall be used to protect the building from further damage and deterioration during the process • If historic preservation architect or structural engineer observes any new damage after relocation of the structure an assessment shall be made of the severity of such damage and repairs taken if necessary. This assessment shall be provided within 5 business days after discovery of the damage <p>The Preservation Plan shall be submitted to the City Historic Preservation Officer prior to issuance of any demolition or grading permits, whichever comes first.</p> | <p>Less Than Significant</p> |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---|--|---|
| <p>The relocation of the City Center Motel Sign to the outdoor rooftop terrace will reduce the integrity and historic eligibility of the sign.</p> | <p>MM CUL-3: City Center Motel Sign Preservation The project applicant shall in coordination with the City’s Historic Preservation Officer, prepare a Relocation Plan that provides details regarding the relocation site, procedures and method for relocation, and maintenance plan for the sign. The Relocation Plan shall be submitted to the City’ Historic Preservation for review and approval prior to issuance of any demolition or grading permits, whichever comes first.</p> | <p>Significant and Unavoidable</p> |
| <p>The addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the SoFA District.</p> | <p>There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.</p> | <p>Significant and Unavoidable</p> |
| <p>The addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the First Street Commercial historic core.</p> | <p>There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.</p> | <p>Significant and Unavoidable</p> |
| <p>Excavation of the site could result in the loss of all as yet unknown subsurface historic resources on the project site.</p> | <p>MM CUL-6.1: Subsurface Cultural Resources – Field Inventory The applicant shall retain a qualified archaeologist that meets the <i>Secretary of the Interior’s Qualifications for Archaeology</i>. Before ground disturbing activities are initiated, including the issuance of any grading or building permits, the qualified archaeologist shall conduct a field</p> | <p>Less Than Significant</p> |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|---|-------------------------------------|
| <p>inventory of the affected parcels. If the field inventory results in the discovery of cultural materials, further action is required to identify, treat, evaluate, and/or mitigate these finds and additional recommendations (e.g., archaeological monitoring, subsurface testing, etc.) may be offered as appropriate. A report outlining the results of the field survey and appropriate implementation procedures for assessing discovered cultural materials shall be submitted to the Director of Planning or Director’s designee prior to issuance of any grading or building permits.</p> | <p>MM CUL-6.2: Subsurface Cultural Resources – Subsurface Testing Following demolition of the structures on the site and prior to issuance of any grading permits, the qualified archaeologist shall complete subsurface testing for archaeological resources on-site. A report outlining the results of the subsurface testing and further recommendations, such as the preparation of an archaeological resources treatment plan, shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement.</p> | <p>Less Than Significant</p> |
| <p>MM CUL-6.3: Subsurface Cultural Resources – Archaeological Resources Treatment Plan If subsurface testing revealed the presence of cultural resources, Prior to issuance of any grading permits, the qualified archeologist shall prepare an archaeological resources treatment plan prior to issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. The treatment plan shall contain, at a minimum:</p> | <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. | <p>Less Than Significant</p> |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|---|-------------------------------|
| | <ul style="list-style-type: none"> • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). • Detailed field strategy used to record, recover, or avoid the finds and address research goals. • Analytical methods. • Report structure and outline of document contents. • Disposition of the artifacts. • Appendices: all site records, correspondence, and consultation with Native Americans, etc. | |
| | <p>The treatment plan shall be prepared and submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to the issuance of any grading permits.</p> | |
| | <p>MM CUL 6-4: Subsurface Cultural Resources – Construction Protocol</p> <p>In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. The qualified archaeologist shall have authority to halt construction activities temporarily in the</p> | Less Than Significant |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---|---|---|
| <p>Demolition of the Pallesen Apartment and Pallesen Building, and relocation of the City Center Motel sign would result in a cumulatively considerable</p> | <p>immediate vicinity of an unanticipated find. If, for any reason, the qualified archaeologist is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist has been contacted to determine the proper course of action. If the find(s) do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, the find and the area around the find shall be avoided by project activities and an Archeological Resources Treatment Plan as described in Mitigation Measure CUL-6.3 shall be implemented. If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations may include, but not limited to: collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.</p> <p>The project archaeologist shall ensure that project personnel do not collect or move any cultural material, and that fill soils that to be used for construction purposes do not contain any archaeological materials. The project archeologist shall be present during all subsurface excavation and grading activities.</p> <p>Implementation of Mitigation Measures MM CUL-1 through CUL-6 would mitigate some of the loss of historic resources, however impacts related to the cumulative loss of historic buildings and urbanization of historic districts would remain significant and unavoidable.</p> | <p>Significant and Unavoidable Impact.</p> |

Table S-1: Summary of Significant Impacts and Mitigation Measures

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|---------------------|-------------------------------|
| contribution to historic impacts as these are unique local resources and would result in a cumulatively significant historic building impact at a local level. | | |

The following mitigation measures are from the analysis in included in the Initial Study attached as Appendix B.

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|---|-------------------------------|
| Biological Resources- Section 6.4 (Appendix B) | | |
| Construction activities associated with the proposed project could result in impacts on migratory birds. | MM BIO-1.1: The project applicant shall schedule ground disturbance activities such demolition and construction between September 1 st and January 31 st (inclusive) to avoid the nesting season. If construction cannot be scheduled to occur outside the nesting season, pre-construction surveys for nesting raptors and other migratory breeding birds (including yellow warblers) shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Between February 1 st and April 1 st (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to initiation of construction activities (including any ground-disturbing activities) or tree relocation or removal. Between May 1 st and August 31 st (inclusive), pre-construction surveys shall be conducted no more than 30 days prior to initiation of these activities. During the surveys, the qualified surveying ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent (within 250 feet) to the construction area for nests. | Less Than Significant |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---|--|--------------------------------------|
| Construction activities associated with the proposed project could result in impacts on migratory birds | MM BIO-1.2: If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged. | Less Than Significant |
| Construction activities associated with the proposed project could result in impacts on migratory birds | MM BIO-1.3: The project applicant shall submit a report prepared by a qualified ornithologist indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to any tree removal, or to issuance of any grading permit or demolition permits whichever occurs first. | Less Than Significant |
| Hazards and Hazardous Materials -Section 6.8 (Appendix B) | | |
| Construction impacts could occur as a result of hazardous materials being present in the soil. | MM HAZ-1: The project applicant shall retain a qualified consultant to conduct focused sampling and analysis for contamination of soil, soil vapor, and/or groundwater on-site prior to issuance of any grading permit. Sampling on the site shall be under the regulatory oversight from the Santa Clara County Department of Environmental Health’s (SCCDEHs) Voluntary Cleanup Program to address soil and groundwater contamination discovered on the property. Removal and off-site disposal of the soil at appropriate landfills during construction of the underground parking lot will likely constitute the mitigation required, however the SCCDEH will approve the proposed mitigation, or if additional groundwater sampling and mitigation is necessary. Based on results of the contamination levels at the site, the project applicant shall prepare, under the guidance of SCCDEH, a Site and | Less Than Significant |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---|---|-------------------------------------|
| <p>Impacts water quality could occur as a result of dewatering during construction.</p> | <p>Groundwater Management Plan (SGMP) or equivalent report. The SGMP shall include recommended measures to remediate the long-term environmental or health and safety risks caused by the presence of hazardous materials and contaminants at the site. The SGMP will also contain contingency plans to be implemented during soil excavation if unanticipated hazardous materials (e.g., former underground storage tanks) are encountered. A Health and Safety Plan (HSP) shall be prepared by the project applicant and each contractor as part of the SMP that will outline proper soil and groundwater handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. The project applicant shall submit the SGMP and HSP(s) to the SCCDEH for approval.</p> <p>The project applicant shall provide all documentation showing submittal of the SGMP and HSPs with the SCCDEH to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department prior to issuance of any grading permits.</p> <p>MM HAZ-2: Dewatering During Construction/Operation. The project applicant shall obtain a discharge permit from the appropriate regulatory agency to dispose of the water collected during the dewatering process. For short-term discharge (less than 1-year), a discharge permit shall be obtained from the City of San Jose’s Watershed Protection Division and the water discharged to the sanitary sewer. For long term discharge (greater than 1-year), the project applicant shall obtain a National Pollutant Discharge Elimination System (NPDES) permit from the California Regional Water Quality Control Board for discharge to the storm system. Both discharge permits require applications and pre-testing of the water to determine if the water meets the respective City or Regional Water</p> | <p>Less Than Significant</p> |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|---|-------------------------------|
| | <p>Quality Control Board (RWQCB) pollutant discharge limits. The water shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Water that exceeds discharge limits shall be treated to reduce pollutant concentrations to acceptable levels prior to discharge. Based on the results of the analytical testing, the project applicant shall work with the RWQCB and the local wastewater treatment plant to determine appropriate disposal options. A copy of the discharge permit or NPDES permit, whichever is applicable, shall be submitted to the Supervising Environmental Planner in the Department of Planning, Building and Code Enforcement Department prior to the start of construction.</p> | |

Noise- Section 6.12 (Appendix B)

| | | |
|---|---|-------------------------------------|
| <p>Impacts from construction noise could occur as a result of operating construction equipment.</p> | <p>MM NOI-1: Prior to Grading Permit issuance, the Project Applicant shall retain a qualified professional to prepare a Construction Noise Logistics Plan. The Construction Noise Logistics Plan shall specify 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. All measures from this plan shall be included on approved grading and building plans. The construction noise logistics plan shall be reviewed and approved by the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permit and/or building permits. Measures to be included in the plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit and approval of a Noise | <p>Less Than Significant</p> |
|---|---|-------------------------------------|

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|--|-------------------------------|
| | <p>Logistics Plan. No construction activities are permitted on the weekends at sites within 500 feet of a residence.</p> <ul style="list-style-type: none"> • 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. • Utilize "quiet" air compressors and other stationary noise sources where technology exists. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. • A temporary noise control blanket barrier shall be erected if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected. | |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|--|---|-------------------------------------|
| <p>Construction vibration impacts could adversely affect nearby historic structures.</p> | <ul style="list-style-type: none"> • If pile driving is necessary, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. • If pile driving is necessary, consider the use of “acoustical blankets” for receptors located within 100 feet of the site. • Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall 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. <p>The project applicant shall ensure that all construction crews shall adhere to the Construction Noise Logistics Plan to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.</p> <p>MM NOI-2.1: The project applicant shall prepare and implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. The Plan shall address vibration impacts to sensitive historic structures of 0.08 in/sec PPV and all normal conventional construction structures of 0.20 in/sec PPV. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The Construction Vibration Monitoring Plan shall include, but is not limited to, the following tasks:</p> <ul style="list-style-type: none"> • Identification of the sensitivity of on- and off-site structures to groundborne vibration. Vibration limits shall be applied to all | <p>Less Than Significant</p> |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|--|-------------------------------|
| | <p>vibration sensitive structures located on or within 50 feet of the project site.</p> <ul style="list-style-type: none"> • Performance of a photo survey, elevation survey, and crack monitoring survey for each structure within 50 feet of construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction and after project completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls, and other structural elements in the interior and exterior of said structures. • Development of a vibration monitoring and construction contingency plan to identify structures 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 document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approach the limits. • At a minimum, vibration monitoring shall be conducted during pavement removal, building demolition, and drilling activities. Monitoring results may indicate the need for more or less intensive measurements. • If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures. • 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. | |

| Significant Impacts | Mitigation Measures | Significance After Mitigation |
|---------------------|--|-------------------------------|
| | <ul style="list-style-type: none">• Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. <p>MM NOI-2.2: The project applicant shall submit the report summarizing the result of the vibration monitoring process during all demolition and construction phases to the Director of Planning or Director’s designee no later than a week after substantial completion of each phase identified in the project schedule of the Construction Vibration Monitoring Plan. The report shall include, but is not limited to, 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.</p> | |

Cumulative Impacts

The project would have the following significant cumulative impacts:

- Demolition of the Pallesen Apartments and Pallesen Building, and relocation of the City Center Motel sign would result in a cumulatively considerable contribution to adverse impacts on historic resources as these are unique local resources and would result in a cumulatively significant historic building impact at a local level.

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

Summary of Alternatives to the Proposed Project

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

A. NO PROJECT ALTERNATIVE

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

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

B. PALLESEN APARTMENTS RELOCATION ALTERNATIVE

Under this alternative, the project would be the same as either Option 1 and Option 2 with the exception of the Pallesen Apartments building being relocated to another location within the Downtown San José area instead of being demolished. The building would be preserved and used as an apartment building similar to its current use, just in another location. Under this alternative the façade for the Pallesen Building would be retained and the City Center Motel sign would be relocated to the roof of the proposed building.

C. HISTORIC STRUCTURE PRESERVATION ALTERNATIVE

Under this alternative, all three structures would remain on the project site, the Pallesen Apartments, the Pallesen Building, and the City Center Motel sign. Each of these structures would remain in its current location, and buildings would retain their current use. A proposed residential development would be designed to around the structures. Under this alternative, approximately 5,000 square feet of development area would be available for the site. The site could support a narrow building with a north-south orientation. The building would be three stories in height. The ground floor would have a small amount of retail area, a building lobby, and some mechanical and maintenance areas. The second and third floors would have approximately six residential units each for a total of 12 units. This design would allow for approximately one row of off-street parking consisting of about 8 parking spaces.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

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

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) for the Garden Gate Tower Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

This will be a SEIR to the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR) certified by the San José City Council in December 18, 2018 (Resolution No. 78942). As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, cumulative impacts, alternatives, and growth-inducing impacts. It is not the intent of an EIR to recommend either approval or denial of a project.

This SEIR is a “Project EIR,” pursuant to CEQA Guidelines Section 15161. A Project EIR examines the environmental impacts of a specific project. This type of EIR focuses on the changes in the environment that would result from implementation of the project, including construction and operation. The environmental issues are discussed in Section 3.0 and Appendix A of this SEIR.

1.2 SEIR OVERVIEW

The SEIR for the Garden Gate Tower Project will be a SEIR to the previously certified Final Environmental Impact Report (FEIR) for the Downtown Strategy 2040.

DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which updated the Downtown Strategy 2000 to be consistent with the Envision San José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040.

The Downtown Strategy 2040 Plan provides a vision for future housing, office, commercial, and hotel development within the Downtown area and 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 FEIR evaluated the traffic and traffic-related air quality and noise impacts of Downtown development projects consistent with Envision San José 2040 General Plan land use designations and Downtown zoning districts up to the year 2040. The Downtown Strategy 2040 FEIR evaluated all remaining resource areas at a program level for site-specific conditions, including construction-related impacts that could not be feasibly evaluated in the absence of specific development project details. The Downtown Strategy 2040 FEIR identified mitigation measures and adopted

Statements of Overriding Consideration for all identified impacts resulting from the maximum level of proposed development.

The Downtown Strategy 2040 Plan also explored other proposed changes, including a minor expansion of the Downtown area boundary to include two blocks on the east side of N. 4th Street between Julian Street and St. John Street, the designation of opportunity sites with a new Employment Priority Area Overlay to prioritize more intense commercial and office uses near the proposed Downtown BART station, and other related General Plan text amendments and land use designation changes to reflect the updated Downtown Strategy 2040.

The Downtown Strategy 2040 FEIR tiers off the analyses in the Envision San José 2040 General Plan (General Plan) FEIR and Downtown Strategy 2000 EIR and provided project-level review (where possible) and program-level review for future actions under the Downtown Strategy 2040. The Downtown Strategy 2040 FEIR's analysis assumed that project-level site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This SEIR completed for the proposed project, provides that subsequent project-level environmental review.

PURPOSE OF THE SEIR

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

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

As such, the City has prepared a SEIR for the proposed project to disclose any new or more severe impacts that were identified in the Downtown Strategy 2040 FEIR.

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

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

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

Section 15151 – Standards for Adequacy of an EIR. An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does

not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

TIERING FROM PREVIOUS EIRS

In accordance with CEQA, this SEIR will supplement the Downtown Strategy 2040 FEIR. The CEQA Guidelines contain the following information on tiering an environmental document:

Section 15152 – Tiering.

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

FOCUSING THE SEIR

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

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

1.3 SEIR PROCESS

NOTICE OF PREPARATION AND SCOPING

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this SEIR. The original NOP was circulated to the public and responsible agencies for input regarding the analysis in this SEIR on April 23, 2018 for a 30-day comment period. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on April 30, 2018, to discuss the project and solicit public input as to the scope and contents of this SEIR.

Due to changes to the project description to include a Co-Living Community Option (Option 2), the NOP was revised and was recirculated for the standard 30-day comment period from March 26, 2019 to April 26, 2019.

This SEIR addresses those issues which were raised by the public and responsible agencies in response to the both NOPs. Both of the NOPs and copies of all the comment letters received are provided in Appendix A of this SEIR.

DRAFT SEIR PUBLIC REVIEW AND COMMENT PERIOD

Publication of this Draft SEIR will mark the beginning of a 45-day public review and comment period. During this period, the Draft SEIR will be available to local, state, and federal agencies and to interested organizations and individuals for review. Notice of this Draft SEIR will be sent directly to every agency, person, and organization that commented on the NOP. Written comments concerning the environmental review contained in this Draft SEIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, & Code Enforcement
Krinjal Mathur, Environmental Planner
200 E. Santa Clara Street, Tower 3rd Floor
San José, CA 95113-1905
krinjal.mathur@sanjoseca.gov
(408) 535-7874

FINAL SEIR AND RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final SEIR in conformance with CEQA Guidelines Section 15132. The Final SEIR will consist of: revisions to the Draft SEIR text, as necessary; list of individuals and agencies commenting on the SEIR; responses to comments received on the SEIR, in accordance with CEQA Guidelines (Section 15088); and copies of letters received on the SEIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will 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 15094(g)).

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

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SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The 0.42-acre project site is comprised of two parcels (APNs 472-26-090 and 472-26-089) located at the intersection of South First Street and East Reed Street, at 600 South First Street in downtown San José. Please see Figure 2-1: Regional Map, and Figure 2-2: Project Vicinity Map.

2.2 EXISTING CONDITIONS

Existing uses of the site consist of a parking lot, a single-story brick office building and adjacent parking, a two-story wood-framed building comprised of four residential units, and a neon sign. Land uses surrounding the proposed project site are as follows:

- **North** – East Reed Street, future downtown residential (high-density) with ground floor retail
- **East** – un-named Alley, commercial, downtown residential
- **South** – two-story commercial building directly adjacent, I-280
- **West** – South First Street, downtown residential (high-density)

The project site has a land use designation of *Downtown* under the City of San José's adopted General Plan and is located in the *DC*–Downtown Primary Commercial zoning district. The project site is located within the South First Area (SoFA) of Downtown and is approximately 0.03 mile southeast of the Parque De Los Pobladores.

Two of the existing structures on the project site are listed in the City's Historic Inventory. The single-story brick office building (Pallesen Building) is identified as a City Structure of Merit, and the two-story residential building (Pallesen Apartments) is identified as eligible for the National Register, California Register, and local landmark listing. The City Center Motel neon road sign is identified as eligible for the National Register and California Register.

2.3 PROJECT DESCRIPTION

The proposed project is a mixed-use residential building of twenty-seven levels with a maximum height of 283 feet. Two design options are proposed in order to provide flexibility in the number and design configuration of the residential units proposed and in order to meet increased market demand for a broader typology of multifamily residential living options. A project summary of each option is provided in Table 2-1: Project Development Options Summary. A rendering of the proposed structure is shown in Figure 2-3: Proposed Garden Gate Tower Rendering.

Table 2-1: Project Summary

| Component | Option 1: Traditional Multi-Family | Option 2: Co-Living Community |
|--|---|--------------------------------------|
| Residential | 290 units | 850 bedrooms ¹ |
| Retail | 4,840 square feet | 6,000 square feet |
| Parking | 232 Vehicle/74 Bike | 124 Vehicle/180 Bike |
| Total Building Area | 513,333 square feet | 510,738 square feet |
| FAR | 24 | 24 |
| Notes: ¹ Consistent with other co-living projects, the City of San José assumes 1.5 people per bedroom to calculate the anticipated number of residents. That value (1,275 residents) is divided by the average number of people per household in the Downtown, which is 2.1 (per Census data) to calculate the number of units towards the capacity of the Downtown Strategy 2040 FEIR. This would result in 607 units equivalent for this project. | | |

Option 1: Traditional Multi-Family Development

The proposed Option 1 includes 290 residential units. The ground level will include approximately 4,840 square feet of retail, lobby, and a loading area. The primary entrance to the building lobby for the residences would be on East Reed Street. A site plan for level one of Option 1 is shown in Figure 2-4: Option 1 Ground Floor Site Plan. A typical residential floor plan for Option 1 is shown in Figure 2-5: Option 1 Typical Residential Floor Plan.

Total on-site parking would include 232 assigned residential parking spaces with five accessible spaces, and eight electric vehicle charging stations. The parking garage would be located underground (B1-B4) and levels 2, 3, and 4. Vehicular parking in the basement would be accessible from a right turn in from South First Street, northbound and parking on the 2nd, 3rd, and 4th levels would be accessed through the Alley off East Reed Street. Additionally, a bike room would be located on the first floor with 74 bicycle racks.

Option 2: Co-Living Community Option

Option 2 proposes up to 850 bedrooms in Co-Living Configuration. The ground level would include approximately 6,000 square feet of retail, lobby and a loading area. The primary entrance to the building lobby for the residences would be on East Reed Street. The ground floor site plan is shown in Figure 2-6: Option 2 Ground Floor Site Plan. Similar to Option 1, building amenities would include a rooftop outdoor terrace with pool and fitness room. The residential units are proposed on floors 2 through 26. A typical residential floor plan is shown in Figure 2-7: Option 2 Typical Residential Floor Plan.

Option 2 would include Transportation Demand Management Program to reduce the number of vehicle trips generated by the project and to reduce the required parking. Option 2 proposes a four-story below-grade with a total of 124 parking stalls, and unlike Option 1, no above grade parking is proposed. The project would include five accessible spaces and eight electric vehicle charging stations. The parking garage would be located underground (B1-B4). No visitor or guest parking would be available, and all parking would be reserved. Vehicular parking in the basement would be accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor with 180 bicycle racks.

Access to the bike room would be from the alley on the eastern side of the building as well as the interior of the building. The building design under Option 2 would look similar to the building rendering shown in Figure 2-3, some of the balcony sizes and locations would change.

2.4 PROJECT COMPONENTS

The primary project components are described below.

DEMOLITION

The project site consists of the following structures existing on site: single-story brick office building, two-story wood-framed building, and neon sign. The project includes the demolition of the single-story brick office building (Pallesen Building) and a two-story residential building (Pallesen Apartments). Additionally, an existing neon sign for the City Center Motel is located at the southeast corner of South First Street and East Reed Street and will be moved to the roof deck of the proposed building.

RESIDENTIAL

Option 1

Option 1 proposes to develop up to 290 residential units with a combined total of approximately 337,054 square feet (including open space areas). The residential units are proposed on floors 5 through 27. These floor plans consist of:

- Levels 5 through 25 include 13 units per level: 2 studio units, 2 two-bedroom units, and 9 one-bedroom units.
- Level 26 includes 11 units: 2 studio units, 3 two-bedrooms units, 6 one-bedrooms units, with space for the pool vault and pool equipment.
- The top level, Level 27, is designed with 6 units: 2 studio units, 3 two-bedroom units, 1 one-bedroom unit, a swimming pool, common terrace, and amenity area.

The lobby for the residential building would have access from East Reed Street.

Option 2

Option 2 proposes to develop up to 850 bedrooms with a combined total of approximately 425,897 square feet (including open space areas). The residential units are proposed on floors 2 through 26. A typical residential floor plans is shown in Figure 7. These floor plans consist of:

- Levels 2 through 26 include approximately 34 bedrooms per level: 16-bedrooms with en-suite bathrooms and 18 bedrooms with shared bathroom facilities. Each floor would have two shared kitchen areas with dining areas and common areas in addition to shared laundry facilities, mechanical rooms and janitorial storage areas.
- The top level, Level 27, is designed with a swimming pool, common terrace, and amenity area.

Similar to Option 1, the lobby for the residential building would have access from East Reed Street.

RETAILOption 1

Option 1 proposes approximately 4,840 square feet of retail space on the ground level, along the western side with entrances on South First Street and East Reed Street. The retail spaces would have access directly from the two streets.

Option 2

Option 2 proposes approximately 6,000 square feet of retail space on the ground level, along the western side with entrances on South First Street and East Reed Street. Similar to Option 1, the retail spaces would have access directly from the two streets.

OPEN SPACE AND AMENITIESOption 1

Under Option 1, the residential public common area, rooftop pool and terrace area, would have a combined total of 4,904 square feet. The private open space area is 13,912 square feet and is divided among units with balconies.

Option 2

Similar to Option 1, Option 2 proposes a rooftop outdoor terrace with pool and fitness room. Option 2 proposes to develop up to 850 bedroom units with a combined total of approximately 425,897 square feet (including open space areas). The Co-Living Facility would provide 9,456-square feet of common interior open space including media rooms, a fitness room, lounge, and common areas.

SITE ACCESS AND PARKINGOption 1

Under Option 1, pedestrian access to the project site would be provided via existing sidewalks on the project frontage along South 1st Street and East Reed Street. Three retail entrances would be facing South First Street and East Reed Street would include one retail entrance, residential lobby entrance, and an access to the waste/back-of-house room.

Option 1 propose a four-story below-grade and four-story above-grade parking garage with a total of 232 parking stalls. Option 1 would include five accessible spaces and eight electric vehicle charging stations. The parking garage would be located underground (B1-B4) and levels 1-4. No visitor or guest parking would be available and all parking would be reserved. Vehicular parking in the basement would be accessible from a right turn in from South First Street Northbound and parking in the above-ground levels would be accessed through the alley off East Reed Street. Additionally, a bike room would be located on the first floor with 74 bicycle racks. Access to the bike room would be from the alley on the eastern side of the building as well as a connection on the interior of the building.

Option 2

Similar to Option 1, pedestrian access to the project site would be provided via existing sidewalks on the project frontage along South 1st Street and East Reed Street. Three retail entrances would be facing South First Street and East Reed Street would include one retail entrance, residential lobby entrance, and an access to the waste/back-of-house room.

Unlike Option 1, no above parking is proposed. Option 2 proposes a four-story below-grade parking garage with a total of 124 parking stalls. Similar to Option 1, Option 2 would include five accessible spaces and eight electric vehicle charging stations. The parking garage would be located underground (B1-B4) and levels 1-4. No visitor or guest parking would be available and all parking would be reserved. Vehicular parking in the basement would be accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor with 181 bicycle racks. Access to the bike room would be from the alley on the eastern side of the building and through the interior of the building.

LANDSCAPING

Under Option 1 and Option 2, the proposed landscaping consists of eight street trees (Yarwood trees); four trees on South First Street and four trees on East Reed Street. On the 27th Floor, two planters are proposed on the outdoor terrace under both options.

CONSTRUCTION

It is anticipated that the project would be constructed over an approximate 24-month period. The site would be excavated to a depth of approximately 40 feet below grade for the four levels of parking. It is estimated that construction of the project would require an export of approximately 31,500 cubic yards of soil under both options. Construction hours would be six days a week (Monday through Saturday) from 7:00 am to 7:00 PM. At the time when the foundation is poured, construction operations would take place over one 24-hour period.

GREEN BUILDING MEASURES

The proposed project would be LEED certified as required by San José City Council Policy 6-32. The project would achieve LEED NC v4 Certification through the U.S. Green Building Council (USGBC). City building codes require consistency with the California Green Building Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption.

2.5 PROJECT OBJECTIVES

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

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use, improving the efficiency of urban services, strengthening downtown as a regional job destination.
2. Promote and prioritize development that serves the needs of the entire City and valley.
3. Maximize use of an infill site by providing retail and residences in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
4. Efficient use of an underutilized site with new structures that will provide housing units in downtown San José.
5. Provide a mixed-use development that provides a pedestrian-oriented use that enlivens the streetscape of the downtown pedestrian network along South First Avenue and Reed Street in accordance with the Downtown Streetscape Master Plan.

Specifically, the project proponent has the following project objective:

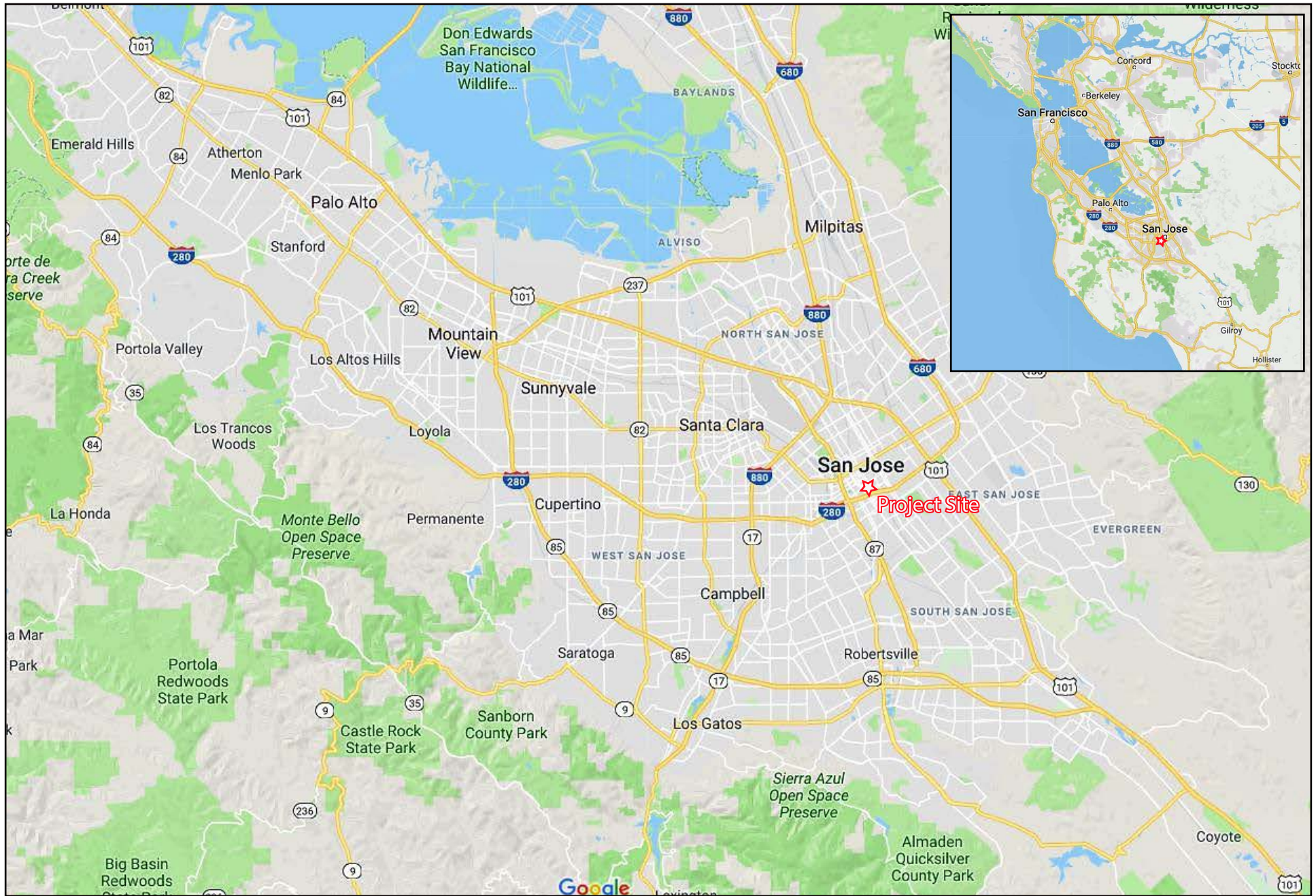
1. Construct a high-quality development that is marketable and produces a reasonable return on investment for the Project Sponsor and its investors and is able to attract investment capital and construction financing.

2.6 USES OF THE SEIR

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

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

1. Special Use Permit
2. Site Development Permit
3. Tentative Map
4. Building Clearances: Demolition, Building, and Occupancy Permits
5. Public Works Clearances: Grading Permits



Source: Kimley-Horn and Associates, 2018

Figure 2-1: Regional Location Map

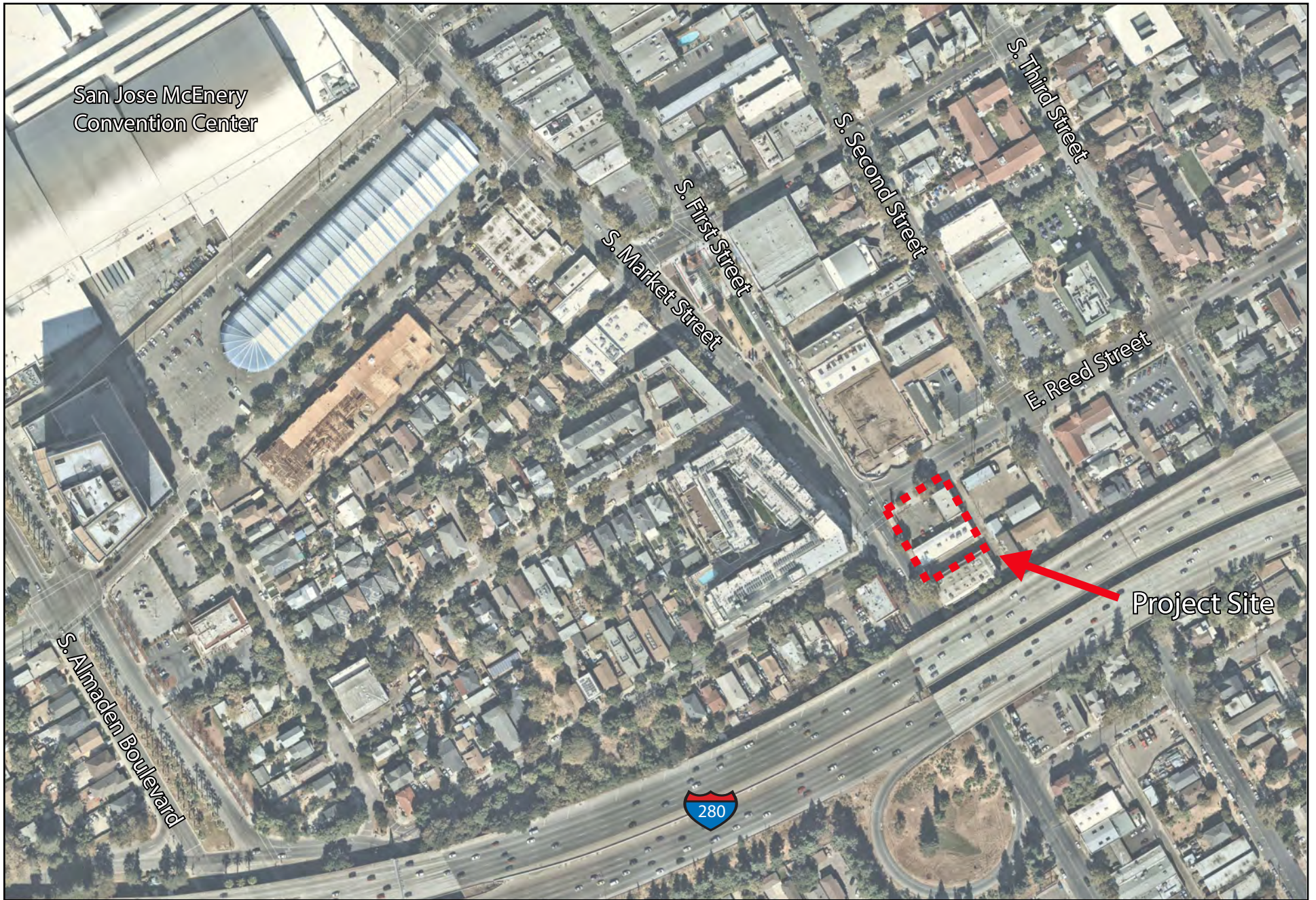
Garden Gate Tower



Not to scale

Kimley»Horn

Expect More. Experience Better.



Source: Kimley-Horn and Associates, 2018

Figure 2-2: Project Vicinity Map
Garden Gate Tower



Not to scale

Kimley»Horn
Expect More. Experience Better.



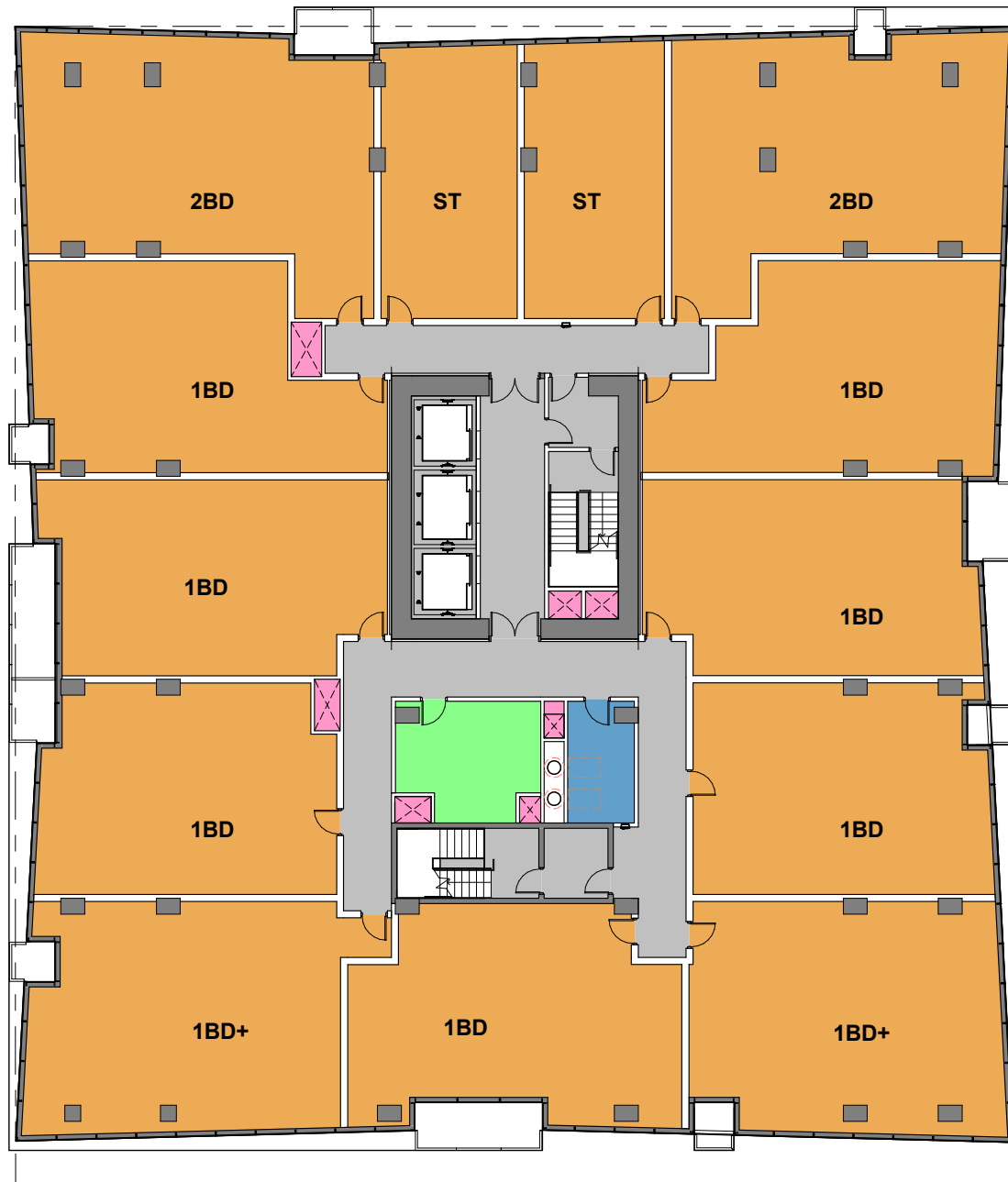
Source: C2K Architecture, Inc. 2018

Figure 2-3: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, 2019

Figure 2-4: Option 1 Ground Floor Site Plan
Garden Gate Tower



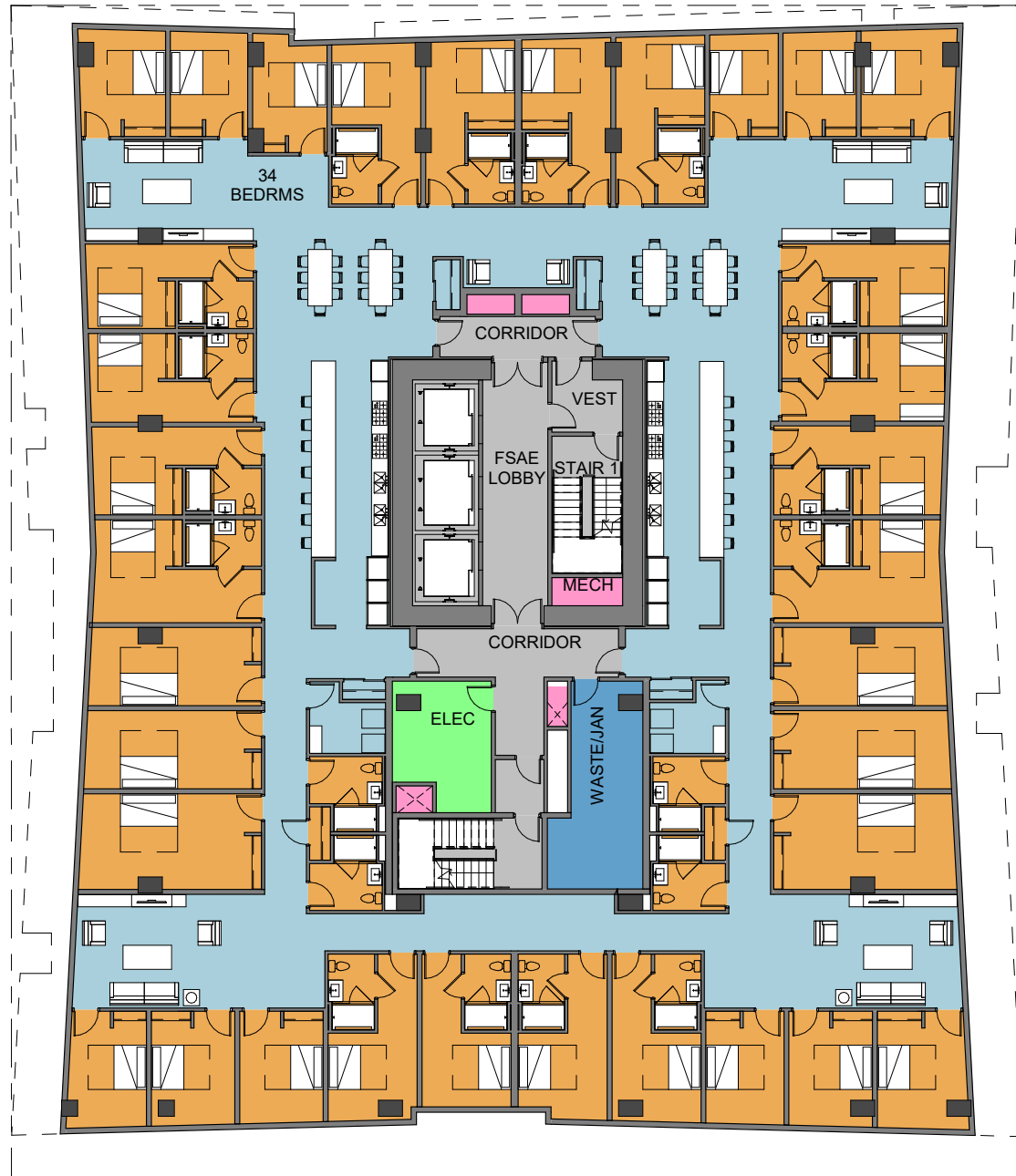
Source: C2K Architecture, 2019

Figure 2-5: Option 1 Typical Residential Floor Plan
Garden Gate Tower



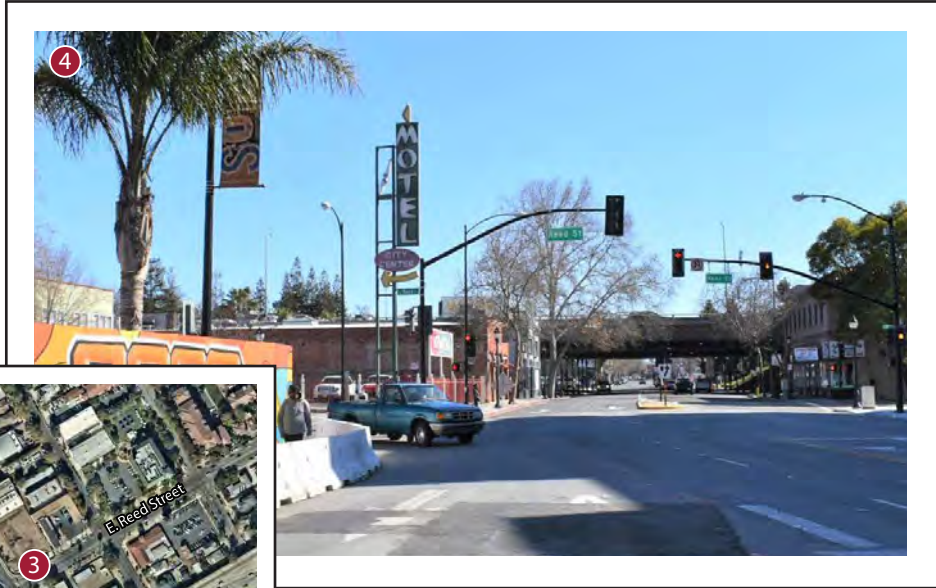
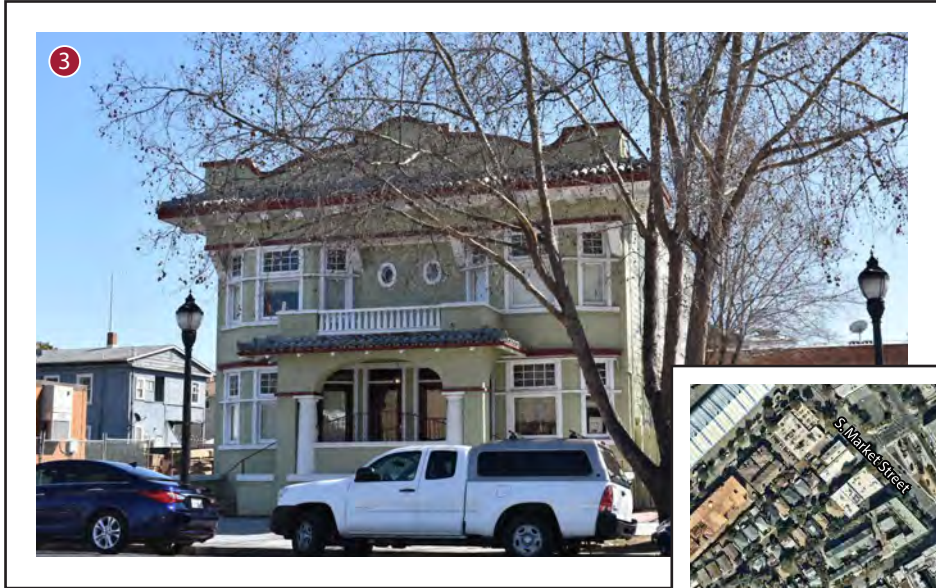
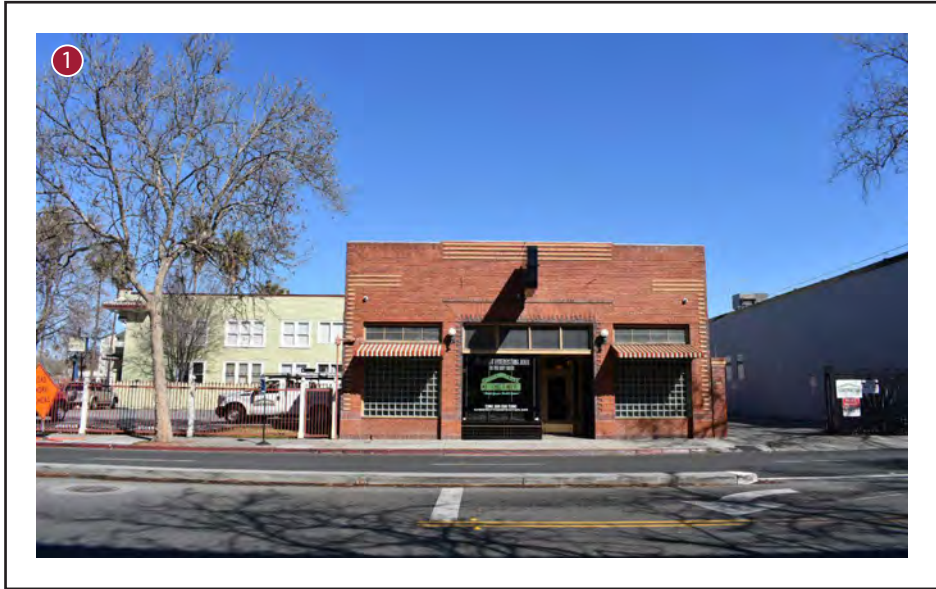
Source: C2K Architecture, 2019

Figure 2-6: Option 2 Ground Floor Site Plan
Garden Gate Tower



Source: C2K Architecture, 2019

Figure 2-7: Option 2 Typical Residential Floor Plan
Garden Gate Tower



Source: Kimley-Horn and Associates, 2018

Figure 2-8: Site Photos 1-4
Garden Gate Tower

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

ENVIRONMENTAL SETTING

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

IMPACTS

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

The project's consistency with applicable plans (such as general plans, specific plans, and regional plans) is also discussed within this subsection pursuant to CEQA Guidelines Section 15125(d). As this project is a Supplemental EIR to the Downtown Strategy 2040 FEIR, potential impacts are evaluated in conjunction with the previous conclusions made in that previously certified EIR. As such each impact discussion leads off with a statement that identifies whether the impact is greater than or less than what was previously identified in the Downtown Strategy 2040 FEIR. For example, a statement under impacts on scenic vistas would read: [Same Impact as Approved Project (Less Than Significant Impact)].

CONCLUSION

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

IMPORTANT NOTE TO THE READER

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

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

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss issues that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

3.1 AESTHETICS

This section describes the aesthetic and visual resource conditions of the project site and discusses the potential individual and cumulative impacts that could result from approving the proposed project. The primary visual and aesthetic concerns are the general changes in land use and visual character within the project site; potential impacts to existing views from adjacent properties; and, visual compatibility of the project with the surrounding area. Visual impacts were evaluated using a combination of a site reconnaissance; review of photo documentation and aerial photographs, and a review of existing policy documents (e.g., City of San José General Plan).

3.1.1 Environmental Setting

REGULATORY FRAMEWORK

STATE OF CALIFORNIA

State Designated Scenic Routes

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.¹

CITY OF SAN JOSÉ

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Council Outdoor Lighting Policy 4-3

City Council Policy 4-3 contains guidelines for the use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City Design Guidelines and Design Review Process

The Downtown Design Guidelines further refine the strategies and policies set forth in the Downtown Strategy 2040 and help provide direction for the design of future development. The Downtown Design Guidelines has three principal objectives: enhancing the character of the City and ensuring new development sensitively fits the City's expectations for the context, character, and quality defined by San

¹ California Department of Transportation. "California Scenic Highway Program". Accessed May 5, 2012. http://www.dot.ca.gov/hq/LandArch/scenic_highways/scenic_hwy.htm.

José; encourage creativity, achieve design excellence, and provide a reasonable degree of certainty; and providing flexibility in the application of development standards. The guidelines include topics such as lighting, materials for construction, exterior design, massing and scale, orientation, and identity. Select guidelines are identified below:

| Guidelines | Description |
|---------------------------|--|
| Skyline Design and Height | The tops of tall buildings should be designed to provide visual interest to the form of the downtown skyline. Buildings over 150 feet have a responsibility to the community to contribute to the skyline that defines Downtown. Relative to the rest of development on a block, taller buildings should be built at the short ends and corners to emphasize intersections, to maintain sun exposure at mid-block, and to frame views of the surrounding mountain ranges. The gradual subtraction of mass towards the top floors reduces the appearance of the overall bulk and generally produces a more interesting building form. |
| Massing and Scale | Buildings should be compatible with the scale of development anticipated by the Downtown Strategy Plan and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. |
| Sustainable Design | The City encourages design, construction, and operation of buildings and landscapes in an environmentally responsible manner. This includes reduction of energy and water use, reducing solid and hazardous waste, preventing indoor and outdoor pollution, and using materials more efficiently. |
| Materials | Use the materials consistently and exceed the design and quality existing in the Downtown on facades and exterior walls of buildings to give a perception of permanence and civic pride. Use the most durable (i.e., low maintenance) materials at the public level. |
| Lighting | Lighting should be coordinated with the Federal Aviation Administration (FAA) and the Lick Observatory. Illuminating building features should create a sense of safe and intimate space around the precinct of the building. Provide appropriate levels of building mounted lighting on façade, in private landscaped areas, in merchandising display windows, and on signage. |

Envision San José 2040 General Plan

The Envision San José 2040 General Plan identifies “gateways,” freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Gateway is on South First Street, from East San Carlos Street to Martha Street, located along the project site. The City of San José has designated I-280 as an Urban Throughway which extends east-west, and is located to the south of the project site. Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics, as listed in the following list.

Attractive City

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement

and development of community character and for the proper transition between areas with different types of land uses.

- Policy CD-1.2: Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use.
- Policy CD-1.4: Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping, and other amenities.
- 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-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
- 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-1.24: Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effects on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Downtown Urban Design

- Policy CD- 6.2: Design new development with a scale, quality, and character to strengthen Downtown’s status as a major urban center.
- Policy CD- 6.8: Recognize Downtown as the hub of the County’s transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
- Policy CD- 6.9: Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high-quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
- Policy CD-6.10: Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.

Attractive Gateways

- Policy CD- 10.2: Require that new public and private development adjacent to Gateways, 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.

City of San José Downtown Strategy 2040

The City’s Downtown Strategy 2040 provides a long-range conceptual program for redevelopment in Downtown San José. The Strategy allows higher densities for infill development and replacing of underutilized developments.

| | |
|---|--|
| <p>Urban Form & Buildings (e,f,l, ii, ll, nn, oo)</p> | <p>Design buildings with a distinctive form, keeping in mind that the assemblage of buildings on the city skyline contributes to the overall image of Downtown San José.</p> <p>Design the exterior lighting and building signage with a conscious effort to create the nighttime cityscape of downtown.</p> <p>Taller buildings can be built at the short ends of blocks and at block corners to emphasize intersections, to maintain sun exposure at the street level, and to frame views to the surrounding foothills.</p> <p>Buildings should present active, pedestrian-friendly facades to the street.</p> |
|---|--|

| | |
|----------------------------------|--|
| | <p>Exterior building materials should be chosen with consideration of their glare-causing potential not only at the street level but also from the view of other neighboring structures.</p> <p>New developments in and around Historic Districts should be designed with consideration of nearby buildings and public spaces without resorting to historic imitation or nostalgia.</p> <p>Respect historic buildings and districts in development and redevelopment projects, without resorting to stylistic imitation.</p> |
| Transportation and Access (g, h) | <p>Incorporate a pedestrian orientation in new development, including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops, to ensure walkability and integration with the existing downtown.</p> <p>Incorporate bicycle amenities into transportation and streetscape planning.</p> |
| SOFA/ Convention Center (d) | <p>Design Gore Park/Plaza de Pobladores as the southern gateway into the Greater Downtown surrounded by new high-quality development.</p> |

South First Area (SoFA) Strategic Development Plan

The SoFA Plan is a result of a broad consideration and detailed look at issues related to public policy, historic and cultural resources, infill development, streetscape and open space, and circulation, as they apply to the South First Area. This area generally includes the area south of San Carlos Street between Market/First Street and Third Street to the I-280 (including the area under the freeway). This area also includes the convention center and a few blocks east of Third Street between San Carlos and San Salvador. Implementation of the Plan involves the cooperation and support of SoFA's property owners and business owners, along with various City agencies and other interested parties. A central focus of the SoFA Plan is to realize SoFA as an arts/entertainment district and to recognize the variety of land uses that have historically been in the area and those that are currently present. The SoFA Plan encourages a variety of land uses in order to retain a range of activity, events, and people.

Downtown Streetscape Master Plan

The Downtown Streetscape Master Plan aims to define the framework for growth in the Greater Downtown area through design plans, streetscape policies, and comprehensive design guidelines for an enriched pedestrian experience. 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. The objectives of the Downtown Streetscape Master Plan include creating a strong urban framework for future development, clear hierarchy for Downtown Streets, high-quality materials, creating strong pedestrian connections, enhancing varying districts within the Downtown area, and improving pedestrian safety, walkability, and continuity throughout the Downtown Streetscape.

Residential Design Guidelines

The Residential Design Guidelines establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The *Residential Design Guidelines* are divided into three parts: relationship to surroundings, internal organization, and guidelines for specific housing types. The Guidelines include information on street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design, which ultimately influence how developers and residents view and interact with one another in the city.

3.1.2 Existing Conditions

The project site and surrounding area is highly urbanized. Buildings and transportation infrastructure (i.e., freeways, roadways, and railroad lines) dominate the aesthetic character. The vast majority of the project area is covered with impervious surfaces. There are many surface parking lots that contribute to a vehicle-oriented landscape.

The site is located within an urban area of San José within Downtown San José and is bordered by residential uses to the north, south, east and west. The residences are a mix of single-family and multi-family. Interstate 280 runs south of the project site, South First Street to the west, East Reed Street to the North and an un-named Alley to the east. The existing project site has two surface parking lots, a single-story brick building used as office, a two-story wood-framed building comprised of four residential apartments, and a remnant neon road sign from the City Center Motel located at the intersection of South First Street and East Reed Street. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

There are a variety of building types, ages, and architectural styles adjacent to the project site and within the Downtown Strategy 2040 Plan area. As described in Section 3.2 Cultural Resources, there are many buildings older than 50 years and several recorded historic buildings identified on and neighboring the project site. In general, the older buildings have minimal setbacks and relatively low building heights (one to two stories).

The project site has been developed for over 100 years; with the existing apartment building at 8 East Reed Street constructed in 1910 and the existing building located at 618 South First Street constructed in 1938. The project site also includes a mid-century neon sign from the City Center Motel. As such, there are no natural scenic resources that exist on the proposed site. The streetscape throughout the Plan area varies in terms of design features, amenities, and sidewalk width and condition. Street trees and landscaping add to the aesthetic character of the Plan area, while overhead power lines detract from the visual quality. Pedestrian activity is generally low.

SURROUNDING AREA

The project site is surrounded by existing urban development and roadways. Adjacent to the project site is a two-story commercial building adjacent to Interstate 280 to the south, an unnamed alley, commercial and residential uses to the east, South First Street to the west, and East Reed Street to the north. Across South First Street is Residential Neighborhood (RN) General Plan Land Use designation and the other side of I-280 includes Mixed-Use Commercial (MUC) and Mixed-Use Neighborhood (MUN). Adjacent development includes two-story structures with residential above ground floor retail. A six-story multifamily development across South First Street. Two-story and multi-family residential structures are

located east of the project site. Parque de los Pobladores is located approximately 0.03-mile northwest of the project site on South First Street, and I-280 is located south of the project.

SCENIC VIEWS

The City of San José is located in the Santa Clara Valley, bounded by the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. The topography of the project site is relatively flat and therefore does not provide scenic views of the Diablo foothills, approximately 7-miles east, or the Santa Cruz Mountains, approximately 10-miles west, of the project site. Due to its urban location, existing buildings, trees, and infrastructure (e.g., utility lines, elevated roadways, etc.) obscure viewpoints and viewsheds. Views of the man-made environment, such as high-rise buildings and landmarks in Downtown San José, are also considered scenic resources. Views of the Downtown skyline are visible from locations throughout the project site.

NIGHTTIME LIGHTING

Sources of nighttime lighting in San José include indoor lighting visible through windows and outdoor lighting of signs, buildings, walkways, parking lots, and parking structures.

3.1.3 Aesthetic Impacts

THRESHOLDS OF SIGNIFICANCE

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

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings; (Public views are those that are experienced from public accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? or;
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

AESTHETICS IMPACTS IDENTIFIED IN THE DOWNTOWN STRATEGY 2040

The Downtown Strategy 2040 FEIR does not identify the project site as being within a designated scenic area. It does, however, identify urban design concepts that are applicable to the project. Specifically, the Downtown Strategy 2040 FEIR identifies the need to incorporate a pedestrian orientation in new development (including appropriate site planning, human-scale street frontages, ground floor uses, and integration with adjacent transit stops) to ensure walkability and integration with the existing downtown. In addition, the Downtown Strategy 2040 FEIR identifies the need to make streetscape improvements (such as landscaping, shade trees, lighting, public art, street furniture, etc.) to enhance and increase pedestrian and transit use. Lastly, it notes that every effort should be made to incorporate existing historic landmark structures into future development plans for the downtown area sites and the surrounding area. These design concepts are intended to enhance the overall visual character of the downtown area.

The following impact analysis includes a combined discussion for both Option 1 and Option 2. Project construction would occur in essentially the same fashion under either Option 1 or Option 2, and the exterior of the building would have the same appearance under either option. As such, impacts on aesthetics do not substantially differ between Option 1 and Option 2.

AES-1 ***Would the proposed project, have a substantial adverse effect on a scenic vista?***
[Same Impact as Approved Project (Less Than Significant)]

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

The site is located within the South First Street Area (SoFA) which calls for smaller building floor plates to ensure a street façade with visual variation, rich visual interest at the street level, lower density and heights than in the northern part of SoFA closer to Downtown core, and maintain a building design focus on arts and entertainment. In the Downtown Design Guidelines, the proposed project is identified as a future or potential "identity" development site.

The proposed project would not have a substantial adverse effect on a scenic vista. The project site is relatively flat and located in an urbanized area within the City of San José. Foothills located approximately 4 miles to the west of the project site are visible from the proposed site. There are existing commercial, residential, institutional and mixed-use uses surrounding the proposed project site, which lies along a bus rapid transit (BRT) Line. While the proposed 27-floor mixed-use residential development is taller than the surrounding development, it would contribute to the visual presence of the Downtown area and would not substantially block scenic views. Therefore, potential impacts would be the same as the approved project (under both Option 1 and Option 2) and no mitigation is required. Figures 3-1 through 3-8: Proposed Garden Gate Tower Rendering, show architectural renderings of the proposed building (the same for both options) and how the building would appear in the downtown setting.

AES-2 ***Would the proposed project, 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)]

The project site and the surrounding area is developed urbanized land and does not have natural landforms or unique features. The project site is located within an urban area with similar uses to the proposed mixed-use residential building. In addition, there are no State or County designated scenic highways in the vicinity of the project site.² The nearest Officially Designated State Scenic Highway is

² California Department of Transportation. Official Designated Scenic Highways. Available at: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm. Accessed October 16, 2017.

California State Route 9 located approximately 8.5 miles southwest of the proposed project site. Santa Clara County has two Eligible State Scenic Highway sections- Interstate 280 (I-280) and California State Route 17 (SR-17) - approximately 3.2 miles west and 9 miles southwest of the project site, respectively. There are historically significant buildings on the site. However they are not located within a State designated scenic highway.

The proposed building that would be seen by drivers on the elevated segments of I-280 and California State Route 87 (SR-87) 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 sections of the freeways south and west of the project site. The project's location on the north side of I-280 would not block views of drivers heading east or west on I-280. On SR-87 the project would be visible from the elevated on- and off- ramps that transition to and from I-280. Views of the Diablo Foothills are brief and intermittent in this area as a result of existing roadways structures and existing buildings in the downtown area. The project would be located on the opposite side of SR-87 from the Santa Cruz Mountains. Therefore, implementation of the proposed project (under both Option 1 and Option 2) would not block views of any off-site scenic resources therefore the impacts are the same impact as the approved project and no mitigation is required.

AES-3 *Would the proposed project, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from public accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

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

CONSTRUCTION

Construction of the project may create temporary aesthetic nuisances associated with construction activities including grading and construction and the presence of construction debris, equipment, and truck traffic. This visual impact associated with the construction of the project would be characteristic of a typical building construction site in a downtown neighborhood. These activities would not result in a substantial degradation to the site or surrounding area; no valuable aesthetic resources would be destroyed as a result of construction-related activities. These impacts are temporary in nature and would cease upon construction completion. Therefore, potential impacts from project construction on the existing visual character and quality of the site are less than significant.

POST-CONSTRUCTION

The project is located in an area with a mix of historic and modern buildings. Implementation of the project would alter the appearance of the City and, in particular, the city block on which the site is located. Implementation of the project would alter the visual character of the project site; however, it would not negatively impact or substantially degrade the visual quality of the site or its surroundings. The project is comparable to the residential towers approved, under construction, or recently constructed to the north of the site, all of which the City deemed consistent with the visual character and quality of the City.

Consistent with the design concepts discussed in the Downtown Strategy 2040 FEIR, the project proposes pedestrian scale development along each of the South First Street and East Reed Street project frontages, which would be the primary pedestrian pathways around the project site. Under Option 1 and Option 2, the lobby for the building would be located on East Reed Street. Retail space would be located on both South First Street and East Reed Street. The retail space would be double height, single-story spaces built up to the sidewalk.

Future development on-site would comply with the adopted plans, policies, and regulations as outlined in the General Plan FPEIR. In addition, the project would be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy 2040. As a result, the project would have a less than significant impact on the visual character and quality of the City.

The project would comply with the Design Guidelines and General Plan Land Use Designation, to turn the area into a vibrant mixed-use and pedestrian-oriented district. The proposed development would enhance the character of the community by providing community-serving retail use and services that allow residents the opportunity to meet many of their daily needs by walking, bicycling or taking transit. Although the development would vary from the existing pattern, scale and character of the general area, it would be consistent with the transition to the high density, mixed-use pedestrian-oriented district envisioned in the General Plan.

Additionally, the SoFA Plan proposes a vertical integration of land uses such as retail, office, and residential development that can be stacked on top of each other in that order. The SoFA Plan encourages a varied and flexible approach to building height allocation and zoning taking into account, the historic nature of the district, the size of available parcels and ensuring building footprints, possible parking capacities and surrounding residential neighborhoods. However, the Plan notes that the area is located in the southernmost end of downtown, and as such, the area can accommodate relatively tall buildings compared to the rest of downtown because of the increased distance from San José International Airport. Therefore, the project's proposed vertical mix of retail and residential uses and proposed building height is consistent with the long-term plan visual character of this area of downtown.

With regard to the proposed building's mass and scale compared to the existing development in the surrounding area, the project would be larger than the existing buildings in the surrounding area. However, this area of South First Street is the beginning of a transitional area from the single-story residential homes to the west to the higher density and commercial areas to the north and east. The elevated segment of I-280 just south of the site provides a visual separation from development south of the site. Across South First Street is the existing The Pierce apartment building, a multi-story apartment building with a building mass that extends the length of the block along South First Street. Across East Reed Street, the Sparq apartment building; a 7-story apartment building, is under construction. The proposed building will be of a similar height, bulk and scale as the existing San Jose Marriott Building (301 South Market Street; 14 stories) and the 360 Residences building (360 South Market Street; 22 stories) located approximately four blocks north of the project site and also within the SoFA District.

As such, the proposed height of the building will not substantially alter the visual character of the area. Similar to the Pierce and Sparq apartment buildings, the project will have retail uses on the ground floor under Option 1 and Option 2; to continue the pedestrian scale development of the other buildings on the area. Further, the project has incorporated a brick façade into a portion of the building design to provide a visual continuity of the existing brick building on the project site. While the project will remove the

existing buildings onsite (see historical resources discussion in Section 3.2), the height and mass of the project will contribute to the overall visual landscape of urban renewal that is occurring across the street as well as what is planned in the Downtown Strategy 2040 and SoFA Plans. Therefore, potential impacts on visual character are less than significant.

Figures 3-1 through 3-7 show architectural renderings of the proposed building from different viewpoints to illustrate the context of the building relative to the existing downtown neighborhood. The project would introduce a tall, modern tower on a block of low-rise, mostly early twentieth century structures on the 600 block of South First Street. The building design includes variation in textures and materials in order to break up the visible building massing and create greater visual variety.

In addition, the project would be required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy 2040 FEIR. With implementation of adopted policies and existing regulations, including the City's Design Guidelines and Downtown Historic Design Guidelines, and the previously identified policies, would reduce the degradation of visual character or quality. Therefore, the project (under both Option 1 and Option 2) would have a less than significant impact on the visual character of the City, and potential impacts are less than significant.

AES-4 *Would the proposed project, 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)]

The project would be visible from the immediate area and nearby freeways, I-280 and SR 87, and would include outdoor lighting on the site typical of multi-unit residential development. Existing ambient sources of nighttime lighting include neon and fluorescent signs, lighting of building exteriors for safety or architectural accents, lights within buildings that illuminate the exteriors of buildings through windows, landscape light, street lighting, parking lot lighting, and vehicle headlights. Lighting would not flash or include animated or sequential illumination that could be distracting to pilots of aircraft or drivers on nearby roadways. The project would comply with City's codes and policies with regards to lighting specifications. The project would comply with City Council Lighting Policy 4-3, which requires low-pressure sodium lighting. The lighting must be directed downward and fully or partially shielded depending on lumen levels. Glare within the downtown is created by the reflection of sunlight and electric lights off of existing windows and building surfaces. Non-reflective glass and building materials would be used, consistent with Building Code standards. It is not anticipated that glare from the glass on the exterior of the proposed buildings will adversely affect nearby uses or automobiles traveling on surrounding roadways.

Lighting will be designed and managed consistent with Building Code regulations and adopted City policies to control the amount and color of light shining on streets and sidewalks and to protect the night sky. The General Plan FPEIR as supplemented, 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.

Additionally, the FEIR for the Downtown Strategy 2040 concluded that implementation of design concepts and guidelines from the Downtown Strategy 2040, City policies and regulations as part of the design

review process would reduce impacts from new sources of light and glare to less than significant. The applicable design concepts and guidelines include³:

- Amenities such as lighting, plantings, and paving for pedestrian ways;
- Orientation of structures to receive adequate sun and protection from the elements
- Massing of buildings to minimize bulk
- Height and location of the tallest buildings on the short ends of City blocks and at corners

No conflicts with these design concepts and guidelines have been identified with the project. Therefore, implementation of the project (under both Option 1 and Option 2) would not create a new source of substantial light or glare and the impacts are the same impact as the approved project and no mitigation is required.

3.1.4 Mitigation and Avoidance Measures

With implementation of the City's Design Guidelines and Downtown Historic Design Guidelines, and existing regulations, the project would not result or have a substantial adverse effect on a scenic vista or the existing visual character or quality of the project area and its surroundings. The project would not result in significant light and glare impacts. As such, no mitigation measures are required.

3.1.5 Conclusion

Both Option 1 and Option 2 would have a less than significant impact on the visual character of the project area, and it would not impact any designated scenic resources. The project would not create significant additional sources of light and glare. Implementation of the project would have a less than significant visual impact.

³ From Table 3.1-2 of the Downtown Strategy 2040 FEIR, page 41.



Source: C2K Architecture, Inc. 2018

Figure 3-1: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-2: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-3: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-4: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-5: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-6: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, Inc. 2018

Figure 3-7: Proposed Garden Gate Tower Rendering
Garden Gate Tower

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3.2 CULTURAL/TRIBAL CULTURAL RESOURCES

The following information is based on a cultural resources report prepared by *Pacific Legacy* and architectural/historical field inventory by *Kara Brunzell* in October 2018. The Cultural Resources Report can be found in Appendix E of this SEIR. The Historic Period Built Environment Report, prepared by Brunzell Historical in August 2018 can be found in Appendix F of this SEIR. The archival and records search completed October 2017 includes information from:

- Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University
- The *California Inventory of Historic Resources* (California Department of Parks and Recreation 1976);
- California Historical Landmarks (California OHP 1996);
- *California Points of Historical Interest* listing May 1992 (California Department of Parks and Recreation 1992); and
- The National Register of Historic Places (*Directory of Determinations of Eligibility*, Volumes I and II, 1990; California OHP 1990 and 2017 computer listing updates for the Historic Properties Directory for Santa Clara County.
- San José Public Library
- Sourisseau Academy

3.2.1 Environmental Setting

REGULATORY FRAMEWORK

FEDERAL REGULATIONS

National Register of Historic Places

The National Register of Historic Places (NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, State and National level. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects, and districts. Historic places are nominated to the NRHP by the State Historic Preservation Officer (SHPO) of the state in which the property is located. Any person or agency can propose a nomination, but a nomination must be processed through SHPO.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. These criteria are:

- Criterion A: Property is associated with events that have made a significant contribution to the broad patterns of our history.
- Criterion B: Property is associated with the lives of persons significant in our past.
- Criterion C: Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or

represents a significant and distinguishable entity whose components lack individual distinction.

Criterion D: Property has yielded, or is likely to yield, information important to prehistory or history.

Secretary of the Interior's Standards for the Treatment of Historic Properties

The 1995 U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) outlines specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of historic properties. Each set of standards provides specific recommendations for the proper treatment of specific building materials, as well as parts of building construction. CEQA references these standards relative to consideration of the significance of project impacts, or lack thereof, on historic resources. The Standards are also referenced in the Envision San José 2040 General Plan and the General Plan EIR.

STATE OF CALIFORNIA

California Register of Historical Resources

The California Register of Historical Resources (CRHR) serves as a guide to identify the State's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change (Pub. Res. Code [PRC] § 5024.1(a)), and it is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. A historical resource is any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or which is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural history of California (14 California Code of Regulations [CCR]. The criteria in which to establish significant of a property for listing on the CRHR is similar to the National Register but with a greater emphasis on local and state significance.

The context types or criteria to be used when establishing the significance of a property for listing on the CRHR are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

CITY OF SAN JOSÉ

City of San José Historic Resources

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

1. An individual structure or portion thereof;

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

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

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
 - a. Of an architectural style, design or method of construction;
 - b. Of a master architect, builder, artist or craftsman;
 - c. Of high artistic merit;
 - d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
 - e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
 - f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The City of San José’s Municipal Code Section 13.48.110 (H) sets forth factors that may be considered in order to determine whether a property qualifies as a local landmark, as outlined below:

Prior to nominating a potentially historic property for designation as a city landmark and/or recommending approval or modified approval of a proposed designation as a city landmark, the Historic Landmarks Commission shall find that said proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that its designation as a landmark conforms with the goals and policies of the general plan. In making such findings, the Commission may consider the following factors, among other relevant factors, with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

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

Envision San José 2040 General Plan

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

Vibration

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. For reference, a jackhammer has a PPV of 0.09 in/sec at a distance of 25 feet. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Landmarks and Districts

Policy LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.

Policy LU-13.2: Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

Policy LU-13.3: For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.

Policy LU-13.4: Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy LU-13.6: Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior’s Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

- Policy LU-13.7: Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
- Policy LU-13.15: Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Historic Structures of Lesser Significance

- Policy LU-14.1: Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
- Policy LU-14.3: Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
- Policy LU-14.6: Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process.

Archaeology and Paleontology

- Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant 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 discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
- Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

City Council Policy on Preservation of City Landmarks

San José City Council adopted a policy on the preservation of historic landmarks on December 8, 1998 (amended May 23, 2006). The intent of the policy is that candidate or designated landmark structures, sites, or districts be preserved wherever possible. Proposals to alter such resources must include a thorough and comprehensive evaluation of the historic and architectural significant and the economic and structural feasibility of preservation and/or adaptive reuse. Every effort to incorporate candidate or designated landmark structures into future plans for the project should be made.

The policy is applicable to this project, and the “Early Public Notification of Proposals to Alter or Demolish a Candidate or Designated Landmark Structure, or to Impact the Integrity of a Historic District” has been met with the discussion of this project at the San José Historic Landmarks Commission. Other requirements such as public input and City Council review, preparation of complete information regarding opportunities for preservation, and making findings justifying alteration or demolition of a landmark structure must be met to be consistent with the policy purpose and intent.

3.2.2 Existing Conditions

HISTORIC RESOURCES

PROJECT SITE

Pallesen Apartments (8 East Reed Street)

This building was constructed in 1910 by Danish immigrant Chris Pallesen. It is a two-story, sixteen-room Mission-revival style building that was designed by Wolfe & McKenzie. The structure was one of the partnership’s last executed projects before the two men went on to achieve individual distinction. The Mission-revival architecture was popular in California from about 1890 through 1920, and was one of Wolf’s first documented experiments with the style. The building exhibits character-defining features of the Mission-revival style, including a shaped parapet, stucco cladding, decorative rafter tails, a clay tile roof, arched openings, and blind arches as a decorative motif.

The building is on the City’s Historic Resources Inventory and the Historic-Period Built Environment Assessment (Appendix F) found it to be eligible as a City Landmark and for the California and National Registers.

Pallesen Building (618 South First Street)

The single-story, art-deco/streamline modern- style commercial building located at 618 South First Street was constructed in 1938 with decorative bricks set into a red brick façade. Lillian Pallesen and husband Chris, owned the property since at least 1909. The building has been used commercially since the 1940s and has been used to house an Electric Battery Station, automotive repair shop, and a Sears & Roebuck warehouse.

The building is on the City’s Historic Resources Inventory and the Historic-Period Built Environment Assessment (Appendix F) found it to qualify as a Structure of Merit.

City Center Motel Sign (Corner of Reed Street and First Street)

A neon road sign from the City Center Motel is located on the project site. The City Center Motel sign, which was first recorded during a 2018 architectural/historical field inventory, has been recommended eligible for listing in the NRHP and CRHR as a distinctive example of Roadside Vernacular architecture.

The sign is not of the City’s Historic Resources Inventory, but the Historic-Period Built Environment Assessment (Appendix F) found it to be eligible as a City Landmark and for the California and National Registers.

SURROUNDING HISTORIC ENVIRONMENT

According to the Historic-Period Built Environment Assessment for the project site showed 203 historic period resources recorded within the 0.25-mile buffer that surrounds the site.

Local Commercial Grouping/ Historic Gateway

There are three buildings that are currently listed in the City of San José's Historic Resources Inventory within 100-feet of the project site.

- 601 South First Street, Rothemel Block (P-43-002902), built 1888;
- 630 South First Street Levin and Son Plummer Supply (P-43-002904), built 1920; and
- 623 Second Street, Verdie Rental (P-43-002914), built circa 1907,

Based on the City's inventory, the Rothemel Block and Levin and Son Plummer Supply are Structures of Merit. The Verdie Rental Building is eligible for the National Register, eligible for the California Register, and is a Structure of Merit.

Among these three buildings, the Rothemel Block and the Levin and Son Plummer Supply building share a common development pattern with the Pallesen Building due to their association with early commercial development along South First Street. The three commercial buildings, with their common setbacks, early 20th Century commercial use and design, and shared location at the base of the City's commercial district, form a historic commercial grouping and provides a historic gateway into South First Street.

South of First Area (SoFA) District

This project site is within the SoFA District, an area of the downtown known for its cluster of cultural arts and entertainment facilities and events. The area is bounded by San Jose State University to the east, the convention center and San Carlos Street to the west and north, and I-280 to the south. Many of the built historic resources in the district trace their origins to the 1920s, when an explosion in automobile ownership and use introduced a concentration of showrooms, garages, and service businesses in the South First and South Market Street area. This area of one- and two-story concrete and brick structures with wide bays frame the area around Parque de Pobladores. Although not formally designated as a historic district, the neighborhood represents one of the last areas of the City's historic commercial core. The area has a high concentration of properties on the City's Historic Resources Inventory, some are City Landmarks. The 2000 Downtown Historic Resources Survey⁴ identified a potential auto row historic district.

South 1st Street Downtown Commercial Historic Core

The project site is within what is known as the Downtown Core, roughly bounded by Julian Street to the north, Fourth Street to the east, I-280 to the south, and SR-87 to the west. This area also represents the historic core of the City. First Street serving as the primary commercial center beginning in the 1920s, but slowed after suburban development moved further and further away from the central core. South First Street contains many properties on the City's Historic Resources Inventory and many designated City Landmarks.

Nearby Designated Historic Districts and Conservation Areas

The project site is located within 0.5-mile of four designated historic districts or conservation areas. These include the Guadalupe/Washington Conservation Area located 0.08-mile southwest, Martha Gardens Conservation Area located 0.05-mile southeast, Market-Almaden Conservation Area located 0.01 mile

⁴ Dill Design Group. Historic Resources Survey Downtown San José, prepared for Department of Planning, Building, and Code Enforcement, 2000.

west, and the Reed City Landmark District located 0.02 mile northeast. Residential uses are the dominate uses within these districts and conservation areas. The project site is not within a designated historic district or conservation area.

ARCHAEOLOGICAL RESOURCES

According to the Downtown Strategy 2040 FEIR, the City of San José area was most likely settled between 12,000 and 6,000 year ago by the Penutian-speaking people and Native Americans occupied Santa Clara Valley and the greater Bay Area 1,500 years ago. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. In the San José area, many of the Ohlone villages were located along the Guadalupe River, Coyote Creek, and other waterways. Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River.

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. The native people in the Bay Area were used for labor and exposed to diseases to which they have no immunity. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe. The City of San José was California's first capital in 1849.

3.2.3 Cultural and Historical Impacts

THRESHOLDS OF SIGNIFICANCE

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

- Cause a substantial adverse change in the significance of a historical resource, pursuant to in §15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource, pursuant to § 15064.5;
- Disturb any human remains, including those interred outside of formal cemeteries; or
- Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 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.

The definition of “historical resources” is provided by CEQA Guidelines § 15064.5(a). The following is an abbreviated and excerpted summary of this definition:

1. A resource listed in, or determined eligible by the State Historical Resources Commission, for listing in, the CRHR.
2. A resource included in a local register of historical resources or identified as significant in an historical resource survey shall be presumed historically significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

3. Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the CRHR.

Under CEQA, a structure need not be listed on a National, State, or local register to qualify as a significant resource. A structure is considered a resource under CEQA if it is found to be *eligible* for inclusion on a National, State, or local register.

CULTURAL RESOURCE IMPACTS IDENTIFIED IN THE DOWNTOWN STRATEGY 2040 FEIR

According to the Downtown Strategy 2040 FEIR, the downtown area has potentially significant impacts related to cultural resources. The Downtown Strategy 2040 FEIR recommended policy-level and programmatic mitigation measures to reduce potential cultural resource impacts to less than significant levels. In two instances, (development of new residential, commercial, institutional, and co-location properties) the impacts would remain significant and unavoidable, even with implementation of the recommended measures.

Future development allowed under the Downtown Strategy 2040 FEIR could impact, either directly or indirectly, historic resources, both those that are currently listed, and those that have yet to be identified and evaluated. Specifically, properties greater than 45 years of age will require supplemental review effort shall include preparation of a site-specific historic resources report. Implementation of the General Plan policies and existing regulations, including application of the California Historic Building Code, the City's environmental and design review processes, will serve to reduce historic architectural resources impacts to a less than significant level.

The following impact analysis includes a combined discussion for both Option 1 and Option 2. The building footprint would be the same under either option, and as such, impacts on cultural and tribal cultural resources do not substantially differ between the two options.

Would the proposed project, cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?

[New Potentially Significant Impact (Significant and Unavoidable Impact)]

A Historic Period Built Environment Assessment was prepared for the project site and surrounding area in September 2018 and evaluated the buildings for listing in the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), and City of San Jose local register (Appendix F). There are two buildings on the project site, both of which are more than 45 years old, and a neon sign. Both buildings and the sign were evaluated for historical significance.

PROJECT SITE

PALLESEN APARTMENTS

The two-story Pallesen Apartments building located at 8 East Reed was built in 1910 designed in the Mission Revival style. This structure has been recommended eligible for listing in the NRHP and CRHR for

its architectural significance because it embodies distinctive characteristics of a type, period, region or method of construction. It was designed by an important regional architectural firm, Wolfe & McKenzie, and it was one of Wolfe's first documented experiments with Spanish-inspired architecture. The structure's façade exemplifies Mission architecture, which was popular in California from about 1890 through 1920. It exhibits character-defining features of the style including shaped parapet, stucco cladding, decorative rafter tails, clay tile roof, arched openings, and blind arches as a decorative motif.

The following analysis is based on the NRHP and CRHR significance criterion A-D or 1-4 (respectively) that is required be met for a resource to be eligible for a federal or State historical registries.

- Criterion A/1: The Pallesen Apartments building is not associated with events that have made a significant contribution to the broad patterns of our history. It is generally associated with San José's population and building boom after the 1906 earthquake. All properties are constructed within specific historic contexts, however, not every property is significantly associated with such contexts. Research has not revealed an important association between 8 Reed Street and San José's early-twentieth-century growth, or with any other historic context. Therefore, the property is recommended not eligible to the NRHP or CRHR under Criterion A/1.
- Criterion B/2: The Pallesen Apartments building is not associated with the life of a person important to our history. Research did not reveal any significant associations to any important historic persons. The Pallesens and the known tenants of the building were not important to local, state, or national history. Therefore, it is not recommended eligible to the NRHP or CRHR under Criterion B/2.
- Criterion C/3: 8 The Pallesen Apartments building is significant for its architecture. It was designed by an important regional architectural firm, Wolfe & McKenzie. It was one of the partnership's last executed projects before Frank Delos Wolfe and Charles McKenzie went on to achieve distinction in solo practices. Its façade exemplifies Mission architecture, which was popular in California from about 1890 through 1920. It is one of Wolfe's first documented experiments with Spanish-inspired architecture. (He later designed landmark examples of Mission and Spanish Revival buildings throughout Santa Clara County.) It exhibits character-defining features of the style including shaped parapet, stucco cladding, decorative rafter tails, clay tile roof, arched openings, and blind arches as a decorative motif. For these reasons, the property is recommended eligible to the NRHP and CRHR under Criterion C/3.
- Criterion D/4: In rare instances, buildings themselves can serve as sources of important information about historic construction materials or technologies and be significant under Criterion D/4. The Pallesen Apartments building does not appear to be a principal source of important information in this regard. For these reasons, the property is recommended eligible to the NRHP and CRHR under Criterion D/4.

The Pallesen Apartments were also identified as eligible for the City of San José historic landmark listing. The structure is a distinctive example of Mission architecture which exhibits the character-defining decorative features of the style, and therefore embodies the distinguishing characteristics of an architectural type. The Pallesen Apartments is considered an exceptional example of its style, is in a high state of preservation, and is a rare example of its kind in the City and Downtown. Wolfe & McKenzie strongly shaped San José's early-twentieth century-built environment.

Therefore, this structure is considered a historical resource under CEQA because of the high historic sensitivity of the South First Street environment, which is and was the gateway into Downtown San José. Thus, the proposed demolition would result in a significant impact as identified in Impact CUL-1. Mitigation Measure MM CUL-1 outlines the appropriate measures to help reduce the impact of demolition of the Pallesen Apartments which include the documentation of the structure and advertising for the relocation and salvage of the building by the applicant and/or a third party. However, even with the incorporation of this mitigation measures, this would be a significant and unavoidable impact.

PALLESEN BUILDING

The Pallesen Building is listed as a Structure of Merit in the City of San José Historic Resources Inventory but not recommended as eligible for listing in the NRHP and CRHR. While the Pallesen Building retains integrity is considered an exceptional example of its style, and is a rare example of its kind in the City and San José Downtown, it lacks any association with significant events, people, or architectural characteristics, and does not represent an important source of information about historic period construction materials or technologies.

The following analysis is based on the NRHP and CRHR significance criterion A-D or 1-4 (respectively) that is required be met for a resource to be eligible for a federal or State historical registries.

- Criterion A/1: The Pallesen Building is not associated with events that have made a significant contribution to the broad patterns of our history. It is generally associated with commercial expansion and the twentieth-century development of automobile-oriented businesses in San José, but extensive research did not reveal important associations with that or any other historic context that would render the property individually eligible for its historic significance. As discussed when it was initially evaluated in 2000, its relationship to the South Downtown Automobile District is secondary since it only briefly housed auto-related businesses. Because of the tenuous connection to this context and the fact that the building location is not contiguous with the district, the property was not then and is not now eligible as a district contributor. Therefore, the property is recommended not eligible for listing in the NRHP or CRHR under Criterion 1/A.
- Criterion B/2: The Pallesen Building is not associated with the life of a person important to our history. Research did not reveal any significant associations to any important historic persons. Therefore, it is recommended not eligible for listing in the NRHP or CRHR under Criterion B/2.
- Criterion C/3: The Pallesen Building is not significant for its architecture. Although it is a reasonably attractive example of an early twentieth-century commercial building, it does not rise to the level of architectural distinction required for historic listing. It has some modest references to Streamline Moderne/Art Deco architecture, most notably the yellow-glazed bricks that form horizontal stripes at the parapet. Other features reference older historicist architectural styles: quoins, brick construction, symmetrical massing, and dentil molding. These classically-inspired features and traditional materials are discordant with the modernistic Streamline Moderne aesthetic. The building lacks the essential character-defining elements of the Streamline Moderne style: smooth solid-colored cladding, asymmetrical massing, rounded forms (such as round corners or circular windows), and overt references to speed. Although it features one decorative element potentially inspired by Streamline Moderne, analyzed as a

whole the Pallesen Building is not an example of Streamline Moderne architecture. Nor do its quoins and brick construction make it an Italian Renaissance Revival building, or indeed a recognizable example of any other architectural style. It is a primarily utilitarian commercial structure onto which its builder added modest decorative elements borrowed from various styles and eras. It is not associated with an important architect or local builder. When it was originally evaluated in 2000, Dill Design Group recommended that its modest architecture was insufficiently distinguished for individual listing. As also discussed in 2000, it is disconnected from the automobile district to the north and therefore ineligible as a district contributor. The findings of the present study have confirmed Dill's recommendations. For these reasons, the property does not rise to the level of architectural significance required for historic listing and is recommended not eligible for listing in the NRHP or CRHR under Criterion C/3.

- Criterion D/4: In rare instances, buildings themselves can serve as sources of important information about historic construction materials or technologies and be significant under Criterion D/4. The Pallesen Building does not appear to be a principal source of important information in this regard. The property is therefore recommended not eligible for listing in the NRHP and CRHR under Criterion D/4.

The project proposes to retain the façade of the Pallesen Building keeping in place its character-defining features, stabilizing the complete brick, tile, glass, parapet, and metal storefront assembly, and shifting it a few feet to the north and four feet further away from the street to accommodate the tower development including the driveway for the on-site parking facility under Option 1 and Option 2. Retaining the façade storefront assembly and shifting its location will help to preserve the building and its most important character-defining architectural features and details, but will compromise the integrity of the structure, lessen its significance, and impair its future eligibility. This preservation of the Pallesen Building façade would compromise the integrity of the building and thus diminish its eligibility as a historic resource on its own.

Therefore, the retention of the Pallesen Building façade would result in a significant impact as identified in Impact CUL-2. Mitigation Measure MM CUL-2 outlines the appropriate measures to help reduce the impact of the façade preservation and demolition of the remaining portions of the Pallesen Building. Implementation of Mitigation Measure MM CUL-2 would lessen the impact on the building itself and also the surrounding historic environment. Figures 3-1 through 3-5 in Section 3.1 provide illustrations of how this brick facade would be incorporated into the building design at ground level. Because the building lacks any association with significant events, people, or architectural characteristics, and does not represent an important source of information about historic period construction materials or technologies potential impacts are considered less than significant with the incorporation of Mitigation Measure MM CUL-2.

CITY CENTER MOTEL SIGN

The City Center Motel sign was determined to qualify as a historical resource under CEQA and eligible for listing in the NRHP and CRHP as a distinctive example of Roadside Vernacular architecture. The City Center Motel sign retains integrity of Design because the decorative features of the sign's original roadside vernacular design remains.

The project proposes to incorporate the sign into the project plans in the outdoor rooftop terrace, as shown in Figure 3-6 in Section 3.1. Removing the neon sign from its location along the roadside and placing

it within a highly elevated location will lessen the integrity of the resource since much of its significance is associated with roadside vernacular architecture. Therefore, this would result in a significant impact as identified in Impact CUL-3. Mitigation Measure MM CUL-3 outlines the appropriate measures to reduce the impact by relocation of the sign through the preparation and implementation of a relocation plan. However, as the project is not proposing to retain or relocate the sign along the roadside, this would be a significant and unavoidable impact.

IMPACT OF THE PROPOSED PROJECT ON SURROUNDING HISTORIC ENVIRONMENT

LOCAL COMMERCIAL GROUPING/ HISTORIC GATEWAY

Based on the City's historic resources inventory, both the "Rothemel Block" and "Levin and Son Plummer Supply" are identified as Structures of Merit. Although Structures of Merit are not always considered significant resources under CEQA, they contribute to the historic fabric of the City. Due to its scale and placement adjacent to moderate one and two-story buildings, recognized for their architectural style in downtown San José, the project would contribute to the incremental adverse change in the historical setting and association of these common commercial, historic-era buildings. Preservation of the Pallesen Building façade would help to maintain the connection between these buildings and thus help to preserve their significance. The Pallesen Building would be considered a contributor to this grouping of early 20th Century commercial development. Preservation of the Pallesen Building façade with little changes to its original location will help to maintain its status as a contributor to this local grouping. Potential impacts are considered less than significant.

SOUTH FIRST AREA (SOFA) DISTRICT

This South First Area (SoFA) District area has increased in density, particularly in regard to residential high-rise buildings, as pedestrian and automobile traffic encouraged by SoFA Strategic Development Plan. The Pierce apartment building, the Sparq apartment building, and other developments within one to two blocks of the project site have changed the historic character of this part of downtown San José. The addition of a modern high-rise building, as proposed with this project, would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the SoFA District itself. Furthermore, the project was not found to be in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties due to the incompatibility of the parking driveway design and ground floor corner design along South First Street specifically as it relates to materials, scale, and proportions.

Therefore, the project's impact to the SoFA District is considered a significant historic resources impact under CEQA. This impact is identified in Impact CUL-4. There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.

Preservation of the Pallesen Building façade would help to maintain the status of the potential SoFA historic district. The Pallesen Building would be considered a contributor to this potential historic district. Maintaining the façade with all the character-defining features of the storefront and roof parapet from its period of significance would retain its status as a contributor.

FIRST STREET COMMERCIAL HISTORIC CORE

Similar to the SoFA District, the project would not meet the Secretary of the Interior's Standards for the Treatment of Historic Properties for new related construction with the First Street Commercial historic

core environment. Under Option 1 and Option 2, the intrusion of a wide driveway along South First Street and wide expanses of glass walls along the pedestrian level of South First Street would be incompatible with the historic character of First Street commercial historic core of the City. The Pallesen Building (618 South First Street) is currently brick construction and features modest decorative elements borrowed from various styles and eras. According to the Historic Resources Report (Appendix F), while the features of the Pallesen Building are potentially inspired by Streamline Moderne, it is not an example of Streamline Moderne architecture when analyzed as a whole. Implementation of the project would construct a new high-rise tower on the historic environment onsite and offsite with the glass walls.

Therefore, the project's impact to the First Street commercial historic core is considered a significant historic resources impact under CEQA. This impact is identified in Impact CUL-5. There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.

NEARBY DESIGNATED HISTORIC DISTRICTS AND CONSERVATION AREAS

The project site is not within a designated historic district at the local, state, or national level, although it is within 0.5-mile of four designated historic or conservation districts. The closest is the Market-Almaden Conservation Area. The project would not result in an impact to the surrounding historic districts and conservation areas and potential impacts are considered less than significant.

CUL-2 ***Would the proposed project, cause a substantial adverse change in the significance of an archaeological resource pursuant to in §15064.5?***
[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]

An archival research was prepared for the project site that identified potentially sensitive areas within the project area that may contain cultural deposits such as privies, pits, or wells (Appendix E). The Sanborn Insurance Maps show changes in the spatial use of the Project area in 1884, 1891, 1915, and 1915 (revised 1950). According to the report, the open space behind the dwellings would be the area of highest sensitivity for buried privy pits, refuse pits, wells, or other historic cultural deposits.

Potential cultural materials that may be encountered within the project area might consist of, but would not be limited to, the following:

- historic period artifacts, such as glass bottles and fragments, tin cans, nails, ceramic and pottery sherds, and other metal objects;
- historic period features such as privies, wells, cellars, foundations or other structural remains (bricks, concrete, or other building materials);
- flaked-stone artifacts and debitage consisting of obsidian, basalt, and/or chert;
- groundstone artifacts, such as mortars, pestles, and grinding slabs;
- dark, almost black, soil with a "greasy" texture that may be associated with charcoal, ash, bone, shell, flaked stone, groundstone, and fire-affected rock; and,
- human remains.

However, with disturbances of both parcels beginning in the 19th century it is unlikely that prehistoric artifacts or intact deposits would be encountered there today. The archival and records search found no prehistoric archaeological sites or isolated finds recorded within 0.25 miles of the Project Area.

The Cultural Resources Report characterizes the project area as having low to moderate sensitivity for buried prehistoric materials. However, under Option 1 and Option 2, the project includes excavation to a depth of approximately 40 feet below grade to accommodate up to four levels of subgrade parking. Therefore, although unlikely, impacts to unknown prehistoric resources or historical archeological resources, including human remains, during construction would be a significant impact under Impact CUL-6. Mitigation Measures MM CUL-6.1 through CUL-6.4 outline the appropriate measures (i.e., field inventory, subsurface testing, archaeological resources treatment plan, construction protocol) to reduce potential impacts on subsurface archaeological resources to less than significant.

CUL-3 *Would the proposed project, disturb any human remains, including those interred outside of formal cemeteries?*

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

A literature search and review was conducted on October 30, 2017 by personnel from the Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University. The record search revealed 27 cultural resources studies within a surrounding 0.25-mile radius and two studies encompassing a portion of the project area; the Downtown San José Historic Resources Survey (2000) and Historic Architectural Survey, Guadalupe/Washington Neighborhood, Norman Y. Mineta San Jose International Airport Acoustical Treatment Program (2003). The two studies that overlapped the project area were architectural/historical investigations.

Based on the archeological literature research, no evidence suggests that any prehistoric or historic-era marked or un-marked human interments are present within or in the immediate vicinity of the project site. However, there is the potential for unmarked, previously unknown Native American or other graves to be present and be uncovered during construction activities. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and grave-associated items from vandalism and inadvertent destruction and any substantial change to or destruction of these resources would be a significant impact. Therefore, the City would require the project to comply with all applicable regulatory programs pertaining to subsurface cultural resources including the following Standard Permit Conditions for avoiding and reducing impacts if human remains are encountered.

Standard Permit Conditions

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will

then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reenter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

CUL-5 *Would the proposed project, cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code §21074?*

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

Assembly Bill (AB) 52 requires lead agencies to conduct 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. Notification was conducted by the City with applicable Santa Clara County tribal representatives identified by the NAHC in compliance with AB 52.

A written notice was received by the City of San José on July 9, 2018, and further specified to City staff in a meeting on July 12, 2018, from Mr. Andrew Galvan as a representative Ohlone Indian Tribe that requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). Consistent with AB 52, during the public circulation period for the Revised Notice of Preparation Mr. Galvan was notified in writing via certified mail and email of this project and associated SEIR. Furthermore, based on his request, a hard copy of the cultural resources investigation was provided to Mr. Galvan for context of the project site. At the time of the preparation of this SEIR, neither Mr. Galvan nor any other representative Ohlone Indian Tribe has provided a written request to start the consultation process.

As discussed above, the project site is located in a low archaeologically sensitive area. Therefore, it is unlikely that subsurface resources would be uncovered during construction of the proposed project. The proposed project, with implementation of the mitigation measures and standard permit conditions listed above to protect archaeological resources in the unlikely event they are discovered during construction grading and excavation activities, would result in a less than significant impact to tribal cultural resources. Therefore, the project would have a less than significant impact on tribal cultural resources.

3.2.4 Mitigation and Avoidance Measures

Impact CUL-1: The demolition of the Pallesen Apartments, a National Register of Historic Places (NRHP), California Register of Historic Resources (CRHR), and local eligible structure, would be a significant impact.

MM CUL-1: Historic Resources – Pallesen Apartments Demolition

Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, to the satisfaction of the Director of Planning or Director's designee in coordination with the City's Historic Preservation Officer, a historic preservation plan demonstrating that the following actions have been satisfied.

Documentation: The structure shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the *Secretary of the Interior's Standards for Architectural and Engineering Documentation* and shall consist of the following components:

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

An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The Department of Parks and Recreation 523 forms prepared for the project (included in Appendix A of Appendix F of the SEIR) can be used to fulfill the requirements for the written data report.

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

Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to advertise the availability of the structure for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

If the project applicant or third party agrees to relocate the structure, the following measures must be followed:

1. The Director of Planning or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building.
2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic

- Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.
3. To protect the building during relocation, the project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.
 4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

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

Salvage: If the project applicant and/or no third party agrees to relocate the structure, the structure shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic Preservation Officer. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

Impact CUL-2: Partial demolition of the Pallesen Building will compromise the integrity of the building as an individual structure and therefore diminish its eligibility as a historic resource.

MM CUL-2: Historic Resources – Pallesen Building Façade Preservation

The project applicant shall retain a historic consultant to prepare a Preservation Plan on the retention of the Pallesen Building façade, which includes the street facing wall and the complete storefront assembly. The Preservation Plan shall include:

- Existing conditions study which establishes the baseline conditions of the building. Documentation shall include written descriptions and visual illustrations, including those physical characteristics of the resources that convey its historic significance (Retention of the original character-defining features)
- Structural engineering plans to show how the structural integrity of the building will be maintained during the move and how the façade will be seismically reinforced.
- Protective fencing and other methods shall be used to protect the building from further damage and deterioration during the process
- If historic preservation architect or structural engineer observes any new damage after relocation of the structure an assessment shall be made of the severity of such damage and repairs taken if necessary. This assessment shall be provided within 5 business days after discovery of the damage

The Preservation Plan shall be submitted to the City's Historic Preservation prior to issuance of any demolition or grading permits, whichever comes first.

Impact CUL-3: The relocation of the City Center Motel Sign to the outdoor rooftop terrace will reduce the historic integrity and eligibility of the sign.

MM CUL-3: Historic Resources – City Center Motel Sign Preservation

The project applicant shall, in coordination with the City's Historic Preservation Officer, prepare a Relocation Plan that provides details regarding the relocation site, procedures and method for relocation, and maintenance plan for the sign. The Relocation Plan shall be submitted to the City's Historic Preservation for review and approval prior to issuance of any demolition or grading permits, whichever comes first.

However, under both options, the project proposes to relocate the sign on the rooftop of the proposed building, and as such impacts would remain significant and unavoidable.

Impact CUL-4: The addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the SoFA District itself. Therefore, this is considered a significant historic resources impact under CEQA.

There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.

Impact CUL-5: The addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the First Street Commercial historic core. Therefore, this is considered a significant historic resources impact under CEQA.

There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.

Impact CUL-6: The loss of all as yet unknown subsurface prehistoric or historic resources on the project site during construction activities would be a significant impact.

MM CUL-6.1: Subsurface Cultural Resources – Field Inventory

The applicant shall retain a qualified archaeologist that meets the *Secretary of the Interior's Qualifications for Archaeology*. Before ground disturbing activities are initiated, including the issuance of any grading or building permits, the qualified archaeologist shall conduct a field inventory of the affected parcels. If the field inventory results in the discovery of cultural materials, further action is required to identify, treat, evaluate, and/or mitigate these finds and additional recommendations (e.g., archaeological monitoring, subsurface testing, etc.) may be offered as appropriate. A report outlining the results of the field survey and appropriate implementation procedures for assessing discovered cultural materials shall be submitted to the Director of Planning or Director's designee prior to issuance of any grading or building permits.

MM CUL-6.2: Subsurface Cultural Resources – Subsurface Testing

Following demolition of the structures on the site and prior to issuance of any grading permits, the qualified archaeologist shall complete subsurface testing for archaeological resources on-site. A report outlining the results of the subsurface testing and further recommendations, such as the

preparation of an archaeological resources treatment plan, shall be submitted to the Director of Planning or Director's designee.

MM CUL-6.3: Subsurface Cultural Resources – Archaeological Resources Treatment Plan

If subsurface testing revealed the presence of cultural resources, the qualified archeologist shall prepare an archaeological resources treatment plan prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

The treatment plan shall be prepared and submitted to the Director of Planning or Director's designee for review and approval prior to the issuance of any grading permits.

MM CUL 6-4: Subsurface Cultural Resources – Construction Protocol

In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. The qualified archaeologist shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist is not present but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist has been contacted to determine the proper course of action. If the find(s) do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation.

If the find(s) does meet the definition of a historical or archaeological resource, the find(s) and the area around the find shall be avoided by project activities and an Archaeological Treatment Plan as described in Mitigation Measure CUL-6.3 shall be implemented. If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations may include, but are not limited to: collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.

The project archaeologist shall ensure that project personnel do not collect or move any cultural material, and that fill soils to be used for construction purposes do not contain any archaeological materials. The project archeologist shall be present during all subsurface excavation and grading activities.

3.2.5 Conclusion

Demolition of the Pallesen Apartments, a NRHP and CRHR eligible structure and City landmark, would be a significant impact. Implementation of the above Mitigation Measure MM CUL-1 would help to minimize the potential impact on this building, however, potential impacts would remain significant and unavoidable. The project would have significant and unavoidable impacts on adjacent and nearby historical structures as a result of the project's building mass and scale and its contribution to the urbanization of the area.

Impacts on the Pallesen Building are reduced to less than significant with the incorporation of Mitigation Measure MM CUL-2 which requires a management plan for incorporating the Pallesen Building façade into the architectural design of the project.

Potential impacts on the City Center Motel sign would be reduced to less than significant if the sign were to be retained in its current location or relocated to a similar roadside location where its integrity could be retained. However, the project proposes to relocate the sign on-site and incorporate it into the outdoor rooftop terrace. Incorporation of the sign into the project design would result in the sign losing its historical integrity and potential impacts would be significant and unavoidable.

The project, both Option 1 and Option 2, would contribute to the increased high-rise development in the South First Street area and would adversely affect the historic character and eligibility of the SoFA District and First Street Commercial historic core for future listing as historic districts. There are no feasible mitigation measures that could reduce the impact of the increased urbanization of this site, and as such, this would be a significant and unavoidable impact.

The project area is characterized as having low to moderate sensitivity for buried sub-surface resources; however, the project, both Option 1 and Option 2, include excavation for subgrade parking and therefore may impacts to unknown prehistoric resources or historical archeological resources. With implementation of Mitigation Measures MM CUL 6.1 through CUL 6.4, the project would not result in significant impacts to subsurface cultural resources because the mitigation measures provide specific performance standards with respect to how to identify, protect and preserve any cultural resources that are discovered during construction.

Therefore, both Option 1 and Option 2 would have a significant and unavoidable impact on cultural resources, specifically historic resources, on the project site and area. Implementation of the mitigation measures would help to reduce the project's impacts, however, not to a less than significant level.

3.3 LAND USE AND PLANNING

3.3.1 Environmental Setting

REGULATORY FRAMEWORK

CITY OF SAN JOSÉ

Envision San José San José 2040 General Plan

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

- Policy CD- 1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- Policy CD- 1.8 Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout 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-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.
1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian-oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
 4. Locate retail and other active uses at the street level.

5. Create easily identifiable and accessible building entrances located on street frontages or paseos.
6. Accommodate the physical needs of elderly populations and persons with disabilities.
7. Integrate existing or proposed transit stops into project designs.

- Policy CD- 2.11: Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
- 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-6.2: Design new development with a scale, quality, and character to strengthen Downtown’s status as a major urban center.
- 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-6.11: Design public sidewalks with ample width to be shared by large volumes of pedestrians and bicyclists, and plant and maintain street trees to provide a tree canopy for shade to enhance the visitor experience.
- Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.

San José Municipal Code

On March 12, 2019, City Council amended Title 20 of the San José Municipal Code to add “Co-Living Community” as a new enumerated use in the DC Downtown Primary Commercial and DC-NT1 Downtown Commercial - Neighborhood Transition Zoning Districts and to add the definition of Co-Living Community to Chapter 20.200. The ordinance establishes a Co-Living Community as an allowed residential use within two Downtown Zoning District to build upon existing efforts to intensify density in approved growth areas under the City’s Envision San José 2040 General Plan to address and reduce the City’s current housing crisis. Section 20.80.290 of the City’s Zoning Ordinance outlines the criteria for approval for a Co-Living Community.

Co-Living Community is defined as a residential facility where individual secure bedrooms rented to one or two persons, are provided for an established period of time with a lease agreement, in exchange for an agreed payment of a fixed amount of money. To be considered a Co-Living Community, shared full kitchen

facilities must serve six (6) or more bedrooms, and must include interior common space excluding janitorial storage, laundry facilities and common hallways. A bedroom that contains a full kitchen facility would not be considered a Co-Living Community. Furthermore, all Co-Living Community projects are required to prepare Transportation Demand Management Program (TDM), regardless of whether a reduction in parking is requested.

Downtown Strategy 2040 Plan

The Downtown Strategy 2040 was approved by City Council on December 18, 2018. Downtown Strategy 2040 provides a long-range conceptual program for revitalizing Downtown through higher density infill development. Downtown Strategy 2040 covers the Downtown Core, which is generally bounded by Taylor Street and Coleman Avenue to the north, Fourth Street to the east, Interstate 280 to the south, and Stockton Avenue and the railroad tracks to the west. The “Guiding Principles” of Strategy 2040 are to:

- Make the Greater Downtown a memorable urban place to live, work, shop and play;
- Promote the identity of Downtown San José as the Capital of Silicon Valley;
- Create a walkable, pedestrian-friendly Greater Downtown; and
- Promote and prioritize development that serves the needs of the entire City and Valley.

As part of the Downtown Strategy 2040 process, the City prepared and adopted several planning documents to guide redevelopment and improvements in the Downtown Core, including Downtown Design Guidelines (2004), Downtown Signage Master Plan (2002), Downtown Streetscape Master Plan (2003), Downtown Lighting Master Plan (2003), and Downtown Parking Management Plan (2001, 2007).

South First Area (SoFA) Strategic Development Plan

The South First Area (SoFA) Strategic Development Plan was prepared by the San Jose Redevelopment Agency on December 17, 2002. A central focus of the SoFA Plan is to realize SoFA as an arts/entertainment district, and to recognize the variety of land uses that have historically been in the area and those that are currently present. The SoFA Plan encourages a variety of land uses in order to retain a range of activity, events, and people. Strategies and actions are provided in three sections of the South First Area Strategic Development Plan: Form, Development and Use; Streetscape and the Public Realm; and Circulation, Access and Parking.

3.3.2 Existing Conditions

EXISTING LAND USES ON THE PROJECT SITE

The 0.42-acre project site is comprised of two parcels (APN 472-26-089 and 472-26-090) located on the corner of South First Street and East Reed Street in downtown San José. The site currently is developed with two buildings and their adjacent paved parking lots. The access to the site is from South First Street and East Reed Street. The General Plan land use designation for the site is *Downtown* and the zoning designation for the site is *Downtown Primary Commercial* (DC). Figure 2-2 in Section 2.0 shows an aerial of the project site and surrounding land uses.

SURROUNDING LAND USES

The project site is surrounded by existing urban development and roadways. Adjacent to the project site is commercial development to the south and east, South First Street to the west, and East Reed Street to

the north. Across South First Street is Residential Neighborhood (RN) General Plan Land Use designation and the other side of I-280 includes Mixed-Use Commercial (MUC) and Mixed-Use Neighborhood (MUN). Adjacent development includes two-story structures with residential above ground floor retail. A six-story multifamily development across South First Street. Two-story and multi-family residential structures are located east of the project site. Parque de los Pobladores is located north of the project site on South First Street and Interstate 280 is located south of the project.

EXISTING LAND USE DESIGNATION AND ZONING

GENERAL PLAN

The Envision San José 2040 General Plan land use designation of *Downtown* allows for office, retail, service, residential, and entertainment uses within the downtown area. Building heights can be between three and 30 stories, densities of floor area ratio (FAR) of 30.0, and residential densities up to 800 dwelling units per acre (DU/AC). Under this designation, residential structures should include ground floor commercial uses to improve the pedestrian experience in the downtown core. The City has Downtown Urban Design Policies to promote the urban, pedestrian-oriented nature of the area.

ZONING

There are a variety of permitted land uses under the DC - Downtown Primary Commercial Zoning District in the City of San José. Uses not allowed in the designation include manufacturing, no solely accessory structure or buildings, maximum occupancy load is determined by the city fire marshal, and include limiting heights of structures to allow safe operations of Mineta San José International Airport.

3.3.3 Land Use and Planning Impacts

THRESHOLDS OF SIGNIFICANCE

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

- Physically divide an established community;
- 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; or
- Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park); or

LAND USE IMPACTS IDENTIFIED IN THE DOWNTOWN STRATEGY 2040 FEIR

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the project would result in the same significant land use impacts, with the exception of shading of Parque De Los Pobladores, a public open space area in downtown San José, as described below. The project site is not located adjacent to any of the six major open spaces in the Downtown San José area.

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on land use do not substantially differ between the two scenarios.

LU-1 ***Would the proposed project, physically divide an established community?
[Same Impact as Approved Project (Less Than Significant Impact)]***

An example of a project that has the potential to divide an established community includes the construction of a new freeway or highway through an established neighborhood. The project would be located on a delineated parcel in an urban area with similar surrounding land uses. The project would generally blend in with the mix of surrounding uses and would not physically divide an established community. Thus, a less than significant impact would occur and no mitigation is required.

LU-2 ***Would the proposed project, 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)]***

Envision San José 2040 General Plan

The Envision San José 2040 General Plan land use designation for the project site is *Downtown*. This general plan land use designation allows for a FAR range up to 30 and heights up to 30 stories. Under Option 1 and Option 2, the project has an FAR of 24 and is a total of 27 stories (maximum height of 283 feet). Consistent with the requirements for residential projects in the downtown area, the project includes ground floor retail, provides a strong pedestrian environment at the ground floor level, and includes quality architectural design. Therefore, the project would comply with the General Plan *Downtown* land use designation.

The Envision San José 2040 General Plan contain specific land use and design policies to shape the character of the City as well as to create consistency in some urban design guidelines to achieve better performance standards in terms consistent land use applications and land use compatibility, in addition to improved quality of life standards such as walkable communities, energy efficient buildings, recreation, and conservation of the City's natural resources. The project is consistent with the applicable land use policies regarding providing architectural and site design, ground floor retail, pedestrian and bicycle facilities, and compatibility with existing development and future development plans for the area. The General Plan policies identified as applicable to the project are listed below in Table 3.3-1: General Plan Consistency Analysis.

Table 3.3-1: General Plan Consistency Analysis

| General Plan Policies | Analysis |
|--|--|
| <p>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.</p> | <p>The project would comply with applicable City Design Guidelines. The project design is reviewed by City staff as part of the planning permit review process. Therefore, the project is consistent with Policy CD-1.1.</p> |
| <p>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.</p> | <p>As proposed, the project would include ground floor retail and the building lobby along the street frontage and pedestrian mall. In addition, new trees would be planted throughout the site, primarily along the street frontage. Therefore, the project is consistent with Policy CD-1.8.</p> |
| <p>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.</p> | <p>As proposed, the project would include ground floor retail and the building lobby along the street frontage. In addition, new trees would be planted along the street frontage. No franchise architecture is proposed. Therefore, the project is consistent with Policy CD-1.12.</p> |
| <p>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.</p> | <p>The project would replace all trees removed during construction consistent with City standards. The new trees would be planted primarily along the street. Therefore, the project is consistent with Policy CD-1.23.</p> |

| General Plan Policies | Analysis |
|---|---|
| <p>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).</p> | <p>The proposed building would be compatible in height, massing, and scale to other recently approved and/or constructed high-rise mixed-use buildings in the area including Museum Place, 360 Residences, One South Market, Gateway Towers, and Post and San Pedro Tower, as well as existing hotels including the Marriot and the Fairmont. Therefore, the project is consistent with Policy CD-4.9.</p> |
| <p>Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.</p> | <p>The project would comply with the Federal Aviation Administration (FAA) regulations for maximum building heights as discussed in Appendix B, Section 4.8. Therefore, the project is consistent with Policy CD-5.8.</p> |
| <p>Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown’s status as a major urban center.</p> | <p>The project includes ground-floor retail to support pedestrian movement along the street frontage. The project includes ground-floor retail to support pedestrian movement along two street frontages. To create a pedestrian environment through the site, the proposed building would have no setback from the sidewalks along the street frontages. The project would comply with the applicable City Design Guidelines. Therefore, the project is consistent with Policy CD-6.2.</p> |
| <p>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.</p> | <p>The Design Guidelines highlight the opportunities that are possible to create strategies and form, especially those unique to San José, for buildings and their interface. The Downtown Design Guidelines define the design objectives for the elements that determine the image of downtown in the areas of site, architecture, and streetscape. The project would comply with the applicable City Design Guidelines. Therefore, the project is consistent with Policy CD-6.10.</p> |
| <p>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.</p> | <p>As proposed, the project would include approximately 5,000 square feet of ground-floor retail within the downtown core and put new housing in proximity to existing retail and services. Therefore, the project is consistent with Policy LU-3.4.</p> |

| General Plan Policies | Analysis |
|--|---|
| <p>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.</p> | <p>As proposed, the project would be consistent with the City’s parking standards for automobiles and bicycles and would place housing, retail, jobs, and a hotel within the downtown core, in proximity to jobs, services, and multiple modes of transit. Therefore, the project is consistent with Policy LU-3.5.</p> |
| <p>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.</p> | <p>The project would be required to get an FAA Determination of No Hazard as part of the project approval process. Therefore, the project is consistent with Policy TR-14.2.</p> |
| <p>Policy TR-14.4: Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.</p> | <p>As with all high-rise structures in the downtown area, the project would be required as a condition of approval to dedicate an aviation easement over the project site. Therefore, the project is consistent with Policy TR-14.4.</p> |

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Zoning Ordinance

The project site is located in the DC- Downtown Primary Commercial Zoning District. The district allows for commercial, office, restaurant, and residential uses within the zoning designation. According to the zoning designation:

- No setbacks are required;
- Height is subject to FAA regulations and a determination of No Hazard;
- Residential parking is one space per unit, unless a transportation demand management (TDM) plan is submitted (which is included);
- No commercial parking is required, and two off-street loading spaces are required for multi-family buildings over 200 units; however, retail loading is not required because the proposed project is under the 10,000 square feet requirement;
- The City requires one bicycle parking per four units, leading to 74 bicycle parking spaces with 60 percent long-term and 40 percent short term.

The project proposes to demolish two existing buildings and construct a residential tower (i.e., Option 1 or Option 2) of 27 stories with ground floor retail. The project would have an FAR of 24 and, as designed, the building conforms to the development standards outlined in the Zoning Ordinance. As such, the project would comply with the DC- Downtown Primary Commercial Zoning District. Therefore, the project site is consistent with the zoning land use designations. Potential impacts are less than significant.

Downtown Strategy 2040 Plan

The Downtown Strategy 2040 Plan contains land use guidelines that seek to ensure that the mixed-use approach to the Greater Downtown will beneficially influence the form of development, promote an active and lively streetscape, and reduce potential land use conflicts. Several of the Downtown Strategy 2040 Plan strategies and actions address developing and revitalizing underutilized or vacant lots, and deteriorating buildings. The project, both Option 1 and Option 2, are infill development that maximizes the use of land in the Downtown Core Area. The proposed mixed retail and residential uses would contribute to the physical links within the surrounding community. The retail uses would provide services and amenities to visitors and residents in the surrounding area. The residential use provides a population base to create an active community in the neighborhood seven days a week.

The Downtown Strategy 2040 Plan and its implementing plans and programs provide a long-range program for the redevelopment and expansion of the Greater Downtown Core Area. The vision expressed in the Downtown Strategy 2040 Plan proceeds from general themes to specific actions including: (1) key priorities and development potential; (2) urban design concepts; (3) design guidelines; and (4) strategies and specific actions.

The Key priorities identified in Downtown Strategy 2040 are as follows:

- Development of retail in the Greater Downtown;
- Housing development, with an emphasis on high densities, 20 percent of which is affordable;
- Completion of the Guadalupe River Park and Los Gatos Creek Trail system;
- Develop parking resources and alternatives;

- Provide streetscape improvements such as lighting, planting, paving and street furniture to
- improve the public realm;
- Expansion of San Jose Convention Center; and
- Update San Jose's Zoning Code and rezone properties consistent with that update and Downtown Strategy 2040.

Implementation of Downtown Strategy 2040 Plan key priorities could result in the following projected level of development in the Greater Downtown Core Area during the planning horizon based on the Plan's strategies and objectives:

- 14.2 million square feet of office space;
- 14,360 residential dwelling units;
- 1.4 million square feet of retail space; and
- 3,600 guest rooms of hotel space, in four to five hotel projects.

With regard to the specific urban design concepts, design guidelines, and strategies and specific actions, the Plan incorporates the strategies and actions from the SoFA Strategic Development Plan for projects within the SoFA District. In the SoFA Plan these strategies and guidelines fall into the following categories: Form, Development and Use; Streetscape and the Public Realm; and Circulation, Access and Parking. The strategies relevant to the proposed from each of these categories are provided below in Table 3.3-2: Downtown Strategy 2040 Plan Consistency Analysis.

The project is consistent with the applicable guidelines set forth in the Downtown Strategy 2040 Plan including the strategies and guidelines incorporated from the SoFA Plan. As such, the project does not conflict with any of the Key Priorities of Downtown Strategy 2040 Plan or hinder the implementation of the strategies and guidelines of the SOFA Strategic Development Plan, and potential impacts are less than significant.

Table 3.3-2: Downtown Strategy 2040 Plan Consistency Analysis

| Downtown Strategy/Guidelines | Analysis |
|--|--|
| <p>Form, Development and Use. Under the topic of “Form, Development and Use,” the SoFA Strategic Development Plan includes subsections on: urban fabric; building heights; land use; historic buildings and places; building edges and transitions; potential sites and specific site studies.</p> | |
| <p><i>Urban Fabric</i></p> <ul style="list-style-type: none"> • Create a walkable and pedestrian-oriented environment in SoFA, including paseos, crosswalks, wide sidewalks, and building entrances for uses that front the streets. • Establish a pedestrian-oriented city block pattern with no frontage of a block longer than about 350 feet between streets and paseos. • Maintain relatively small building footprints in the predominantly residential and historic areas of SoFA, and allow larger building footprints in the mixed-use and commercial areas without historic structures. | <p>The project is consistent with these applicable strategies. The project proposes wide sidewalks along the building frontage under both options. The building facade will be set back approximately 22 feet from the curb along East Reed Street and approximately 10-15 feet from the curb on South First Street. The building will have entrances to the retail areas on both East Reed and South First Street. The entrance to the building lobby will be off of East Reed Street. The building maintains a small building footprint. The building footprint is 141 feet by 125 feet. It maintains the existing alley off of East Reed Street. The project does not alter the current dimensions of the existing block. Although the project does have a historic structure onsite, it is located in an area zoned Downtown Commercial and is located on a corner with mixed uses located on two of the opposite corners of the intersection.</p> |
| <p><i>Building Heights.</i></p> <ul style="list-style-type: none"> • Design and build buildings with appropriate heights in new SoFA development, recognizing the desired pedestrian character of the area, the height of historic buildings, the scale of existing structures including the freeway, and the height and scale of Downtown to the north and residential neighborhoods to the east and west. • Adopt a phased policy toward allowable maximum heights along First Street, allowing | <p>The project is consistent with these applicable strategies because the proposed building height is appropriate given the other comparable heights of existing development in the surrounding area. This includes the elevated segment of I-280 just south of the project site, The Pierce residential development to the east of the project site, the Sparq residential development to the north of the project site, and other building of similar scale within the SoFA District along Market street including the 360 Residences and the San Jose Marriott.</p> <p>The project is located at the southern end of the SoFA District on South First Street, and represents a similar scale to the existing buildings (noted above) at the northern end of the district. The building's height reflects its consistency with having a pedestrian scale building front that allows to the existing block to be less than 350 feet long. The building height accommodates the density necessary to keep the building footprint small, provide retail</p> |

| Downtown Strategy/Guidelines | Analysis |
|--|---|
| <p>mid-rise buildings along First Street between San Carlos and William Streets in the near and mid-term, and higher buildings in the long term.</p> <ul style="list-style-type: none"> Pursue development with appropriate height and scale around the Parque de los Pobladores to provide definition and enclosure for the park and adjacent street spaces. | <p>amenities and a parking garage to provide off-street parking. With regard to Parque De Los Pobladores, the project is located approximately 100 feet south of the park and would provide a visible landmark signifying the southern end of the park as well as the southern edge of the SoFA District. The project includes off street parking and would not adversely impact the existing parking spaces around the park.</p> |
| <p><i>Land Use</i></p> <ul style="list-style-type: none"> Encourage mixed-use development with retail, food, and entertainment on the street level, and with residential, office and hotel uses on the upper levels. Provide housing of various types in SoFA, including artists housing, lofts and live/work dwellings, and explore the upper levels of proposed developments for residential uses. | <p>The project is consistent with these applicable strategies because it includes retail space on the ground floor with residential uses above it. The project will provide condominium units which provides future residents homeownership opportunities in new development in contrast to the recently constructed for-rent apartment developments that have been recently constructed in the SoFA District.</p> |
| <p><i>Historic Buildings and Places.</i></p> <ul style="list-style-type: none"> Recognize the historic structures and places in SoFA, the character that they convey for the area, and use rehabilitation and adaptive reuse wherever feasible for historical buildings. Encourage preservation and adaptive reuse of designated landmark structures. | <p>The City Center Motel sign would be relocated to the pool deck common area and will remain on the property. The first-floor building facade includes brickwork to mimic the existing brick Pallesen Building located at 618 South First Street. Relocation and reuse options for the Pallesen Apartments (8 East Reed Street) were evaluated, but no feasible options were identified that could be accomplished in a reasonable timeframe. The height, scale, and massing of the project is consistent with the character of the surrounding buildings in this area of the SoFA District.</p> |

| Downtown Strategy/Guidelines | Analysis |
|--|---|
| <ul style="list-style-type: none"> Respect the height, scale, massing, and character of existing historic resources with adjacent and proximate new development. | |
| <p><i>Building Edges and Transitions.</i></p> <ul style="list-style-type: none"> Design the street level and in some cases, the second level of the developments in SoFA with active, pedestrian-oriented uses, such as retail, restaurants, arts, and entertainment uses. Design parking facilities that have minimum impact on the pedestrian realm of SoFA, both visually and in uses along street frontages. | <p>The project is consistent with these applicable strategies because the project includes ground floor retail uses with wide sidewalks and a dedicated pedestrian pathway to provide a pedestrian scale environment and pedestrian uses. The building footprint is small such that the proposed building would not occupy the whole block or require future development to expand beyond the block in order to meet City design guidelines. The project design includes an interior parking garage that would be wholly within the building and would not block or impede pedestrian uses either physically or visually.</p> |
| <p><i>Potential Sites and Specific Site Studies.</i></p> <ul style="list-style-type: none"> Plan and develop major available sites in SoFA with private and public development of mixed-use projects. | <p>The project is consistent with this applicable strategy because it proposes a mixed-use private development project on a corner lot within the SoFA District.</p> |
| <p>Streetscape and the Public Realm. Under the topic of “Streetscape and the Public Realm,” the Plan includes subsections on: walkability; transitions, connections and linkages; streetscape treatment; Parque de los Pobladores; area under I-280; paseos/arcades; lighting and street furniture; public art program; festivals and events; and signage.</p> | |
| <p><i>Walkability.</i></p> <ul style="list-style-type: none"> Make SoFA a walkable area by providing generous sidewalks, better intersections, crosswalks at all feasible intersections, and by carefully defining areas for vehicular traffic. | <p>The project is consistent with these applicable strategies because the project would provide wide sidewalks and a dedicated pedestrian pathway to provide a pedestrian scale environment and pedestrian uses. The project would not alter any existing roadway intersections or alter any existing traffic patterns. The project’s smaller footprint creates a walkable building pattern and contributes to the short distances between streets and other identified walkways.</p> |

| Downtown Strategy/Guidelines | Analysis |
|--|--|
| <ul style="list-style-type: none"> Establish a walkable city block pattern with frontages of blocks that are relatively short between streets and paseos. | |
| <p><i>Transitions, Connections and Linkages.</i></p> <ul style="list-style-type: none"> Design buildings in proposed developments that make appropriate transitions to neighborhoods and lower scale buildings that are adjacent or proximate. Accentuate the ends of view corridors, particularly street corridors, such as San Salvador at Market. | <p>The project is consistent with these applicable strategies because the project is located within a transitional area of the South First Street. Single story homes are located to the west of the project site and transition to larger commercial and multi-family buildings to the east towards the project site. This transition also corresponds to the I-280 freeway that is located just to the south of the project site. The project site is within a Gateway Area of Downtown San José. The project with mixed uses and pedestrian scale design would serve as a link from areas south and west of the SoFA District to the core areas of the District including Parque De Los Pabladores. The proposed building would accent the southern end of South Market and South First Street as a visible landmark that punctuates the southern end of the SoFA District.</p> |
| <p><i>Streetscape Treatment.</i></p> <ul style="list-style-type: none"> Give a distinctive character to individual streets that have particular roles to play within SoFA, such as First, San Salvador, San Carlos, Market and 2nd. | <p>The project is consistent with this applicable strategy because the proposed streetscape would contribute to the existing distinctive character of this area of the SOFA District by activating the ground floor with retail uses which would complement the existing ground floor retail uses in the surrounding area. Additionally, the project proposes a high-rise tower located along First Street in the SoFA district on a corner lot with a distinctive architectural design that incorporates elements of the existing Pallesen Building.</p> |
| <p>Circulation, Access and Parking. Under the topic of “Circulation, Access and Parking,” the Master Plan includes subsections on: vehicular traffic and streets; parking distribution and ratios; and primary intersections.</p> | |
| <p><i>Parking Distribution and Ratios.</i></p> <ul style="list-style-type: none"> Explore lowering the required parking for some uses, such as small dwelling units and artist lofts, in order to lower the total number of parking spaces required in SoFA. | <p>The project is consistent with this applicable strategy because the proposed project does have reduced parking to encourage walking and the use of public transit options available in the area.</p> |

Downtown Design Guidelines

The proposed development is subject to the Downtown Design Guidelines prepared in 2004 to ensure consistent massing and site design with the existing downtown area. Buildings taller than 75 feet should encourage variations in mass and form for all stories above 75 percent of the buildings total height. Developments over 150 feet should have a discernible treatment to distinguish the base, middle and top of each building. Buildings over 75 feet must have at least two vertical breaks to divide the bulkiness of the mass. The Downtown Design Guidelines has specifications on materials, windows, signage, lighting, facade, and service areas. The project has gone through design review during the planning permit review process and was determined to be consistent with the Downtown Design Guidelines, as such potential impacts are less than significant.

| | |
|-------------|---|
| LU-3 | <p><i>Would the proposed project, result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnergy Park)?</i></p> <p><i>[Less Impact Than Approved Project (Significant and Unavoidable Impact)]</i></p> |
|-------------|---|

Shade and Shadow

The proposed development includes a 27-story tower with a maximum height of 283 feet under Option 1 and Option 2. Properties located in the DC – Downtown Primary Core Zoning District are not subject to a minimum setback requirement. For properties covered under the Downtown Strategy 2040 FEIR, a significant shade and shadow impact is defined as:

- Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnergy Park)

The Downtown Strategy 2040 FEIR concluded that development capacities allowed under Downtown Strategy 2040 would result in significant shading on public open space in the winter months. The public open space closest to the project site is the Parque De Los Pobladores, which is not one of the six major open space areas identified in the Downtown San José area. As such, this threshold would not apply to this project as it would not substantially shadow a major open space.

However, for informational purposes, a shade and shadow study was prepared for the project to determine the amount of shadow cast onto the nearest open space to the project site, Parque De Los Pobladores, taking into account the proposed building's height and location. The study evaluates the length of the shadow at the spring and fall equinox and at the winter and summer equinox. The study shows the shadow location at three different times of day on each of these days. The results of the study are shown in Figure 3-8. The study shows that the building's shadow will cover a portion of the park in the fall and winter months. The park will receive the greatest amount of shadow in the winter months when the entire park is covered in shadow from the proposed building for a brief period of less than one hour. At the winter solstice, the shading of any portion of the park would begin at approximately 8:00 AM and the entire park would be shaded at approximately 9:00 AM, and by 10:00 AM the park would be completely outside the building shadow as the shadow moves over the park from west to east. The total

time any portion of the park would be shaded would be less than two hours with some portions of the park receiving direct sunlight during that time.

The project would result in a minor increase to shade on the Parque De Los Pobladores, as the park is covered by building shadow limited to less than two hours during the winter months. As a point of reference, the Downtown Strategy 2040 FEIR considered shading impacts potentially significant on the six major Downtown parks if 10 percent or more of the park was covered in shade at 10:00 AM, 12:00 PM, or 2:00 PM on December 21 (winter solstice). Therefore, the project does not substantially shade Parque De Los Pobladores from September through March and will not result in an adverse effect. Furthermore, impacts from shade and shadow is considered less than significant because the project site is not located near one of the six major public parks, and therefore will not result in increase in the shadow cast.

3.3.4 Mitigation and Avoidance Measures

The proposed building would not substantially shade Parque De Los Pobladores during from September through March, which is not identified as an impact under Downtown Strategy 2040 FEIR. Therefore, potential impacts are considered less than significant and no mitigation is required.

3.3.5 Conclusion

Both Option 1 and Option 2 would have a less than significant impact on land use. The project would not divide an established community or conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Additionally, shade and shadow impacts from the project to nearby open spaces would be less than significant. Implementation of the project would result in the same less than significant land use impacts previously identified in the Downtown Strategy 2040 FEIR.



Source: C2K Architecture, Inc. 2018

Figure 3-8: Garden Gate Tower Sun-Shading Studies
Garden Gate Tower

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3.4 ENERGY CONSERVATION

This section was prepared pursuant to CEQA Guidelines Section 15126.4 (a)(1)(C) which requires that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. The information in this section is based largely on data and reports produced by the California Energy Commission, the Bay Area Air Quality Management District (BAAQMD), and the Energy Information Administration of the U.S. Department of Energy, and the Air Quality/ Greenhouse Gas Assessment prepared by Michael Baker International January 2018 included in this SEIR as Appendix C.

3.4.1 Environmental Setting

REGULATORY FRAMEWORK

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards apply to numerous products (e.g., the EnergyStar™ program) and transportation (e.g., fuel efficiency standards). At the state level, rebates/tax credits are provided for installation of renewable energy systems and the Flex Your Power program promotes conservation in multiple areas. Additional laws, regulations, and programs are summarized below.

STATE OF CALIFORNIA

California 2007 Energy Action Plan Update

The 2007 Energy Action Plan II is the State's principal energy planning and policy document. The plan describes a coordinated implementation strategy to ensure that California's energy resources are adequate, affordable, technologically advanced, and environmentally sound. In accordance with this plan, the state and its electricity providers would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply to meet its energy needs.

Renewable Energy Standards

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

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

With the adoption of SB 1078 in 2002, California established its Renewable Portfolio Standard (RPS) program to provide a flexible, market-driven policy to ensure that the public benefits of wind, solar, biomass, and geothermal energy continue to be realized as electricity markets become more competitive.

Under SB 107 and Executive Order S-14-08, the state's goal is to increase the percentage of renewable energy in the State's electricity mix to 33 percent by 2020.

The CPUC and CEC are jointly responsible for implementing the RPS program. Local land use planning processes can facilitate or hinder the ability of providers to establish the additional renewable energy projects and transmission line connections that will be necessary to meet the requirements of this legislation.

Building Codes

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years; the 2013 standards became effective July 1, 2014. The 2016 Title 24 updates have gone into effect as of January 1, 2017.⁵ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.⁶

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

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. The current version of the standards was adopted on April 23, 2008 and took effect August 1, 2009. Compliance with these standards is mandatory at the time new building permits are issued by City and County governments.

California Utility Efficiency Programs (Senate Bill 1037 and Assembly Bill 2021)

SB 1037 and AB 2021 require electric utilities to meet their resource needs first with energy efficiency. California Utility Efficiency Programs have also set new targets for statewide annual energy demand reductions.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code (CALGreen) that establishes mandatory green building standards for new construction (new buildings and expansions) 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 minimum guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels. Local communities may institute more stringent versions of the code if they choose. The code went into effect as part of the City's building code on January 1, 2011.

⁵ California Building Standards Commission. California Building Standards Code (California Code of Regulations, Title 24). Accessed January 30, 2018. <http://www.bsc.ca.gov/Codes.aspx>.

⁶ CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2015. Accessed January 30, 2018. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>.

CITY OF SAN JOSÉ

Envision San José 2040 General Plan

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

- 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.
- Action MS-2.8 Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers.
- Action MS-2.11 Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
- Policy MS-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.

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- 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
- Policy MS-14.5 Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
- Action MS-14.6 Replace 100% of the City’s traffic signals and streetlights with smart, zero-emission lighting by 2022.
- Action MS-15.9 Train City code enforcement and development review staff in state-of-the-art Heating, Ventilation, and Air Conditioning (HVAC) and insulation industry standards, best practices, and resources to ensure buildings are constructed in compliance with those industry standards and best practices.
- Policy MS-17.2 Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system in areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
- Policy MS-18.2 Require new development outside of the City’s Urban Service Area to incorporate measures to minimize water consumption.
- Policy MS-18.4 Retrofit existing development to improve water conservation.
- 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.

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- 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 MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
- Policy MS-19.4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
- Action MS-19.10 Develop incentives to encourage the use of recycled water. Enact ordinances that ensure that new buildings in the vicinity of the SBWR pipeline are constructed in a manner suitable for connection to the recycled water system and that they use recycled water wherever appropriate.
- 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 to extend the lifespan of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
- Policy PR-6.4 Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
- Policy PR-6.5 Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.
- Action PR-6.9 Obtain applicable Leadership in Energy and Environmental Design (LEED) Certification (or its equivalent) for new and existing parks and recreation facilities, as dictated by applicable City policies.
- 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 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.
- Policy TR-3.3 As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

City of San José Private Sector Green Building Policy

The San José City Council approved Policy 6-32 *Private Sector Green Building Policy* in October 2008 that establishes a baseline green building standard for private sector new construction within the City. Policy 6-32 is intended to enhance the public health, safety, and welfare of City 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. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)⁷, GreenPoint⁸, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in the table below.

| Applicable Project | Effective as of January 1, 2009 |
|--|---|
| Commercial/ Industrial – Tier 1 | < 25,000 square-feet = LEED Applicable NC Checklist |
| Commercial/ Industrial – Tier 2 | ≥ 25,000 square-feet = LEED Silver |
| Residential < 10 units – Tier 1 | GreenPoint or LEED Checklist |
| Residential ≥ 10 units – Tier 2 | GreenPoint Rated 50 points or LEED Certified |
| High-Rise Residential (75' or higher) | LEED Certified |
| Source: City of San José Private Sector Green Building Policy: Policy Number 6-32. October 2008 http://www.sanjoseca.gov/index.aspx?NID=3284 | |

Green Vision

The Green Vision includes the goal to reduce per capita energy consumption by at least 50 percent compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 level through 2040.

⁷ Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

⁸ Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

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.

City of San José Smart Energy Plan

In March 2001, the City of San José adopted a Smart Energy Plan which includes discussions and implementation steps for the following strategies:

- Explore regional energy solutions together with neighboring communities.
- Collaborate with neighboring communities to identify regional criteria for appropriate locations for new large, clean plants in Silicon Valley that do not harm residential communities.
- Explore creative energy partnerships among cities, the State, and federal governments, and the private sector to help ensure reliable supplies and achieve conservation.
- Reduce the City's energy demand through vigorous conservation efforts to achieve at least a 10 percent savings and encourage community conservation.
- Expand the City's model program for energy-efficient buildings to encourage long-term permanent conservation.
- Actively encourage small clean power plants in San José that can be located in appropriate industrial areas and publicly-owned lands, not in residential neighborhoods.
- Set clear predictable standards for clean energy generation projects within the City's authority and streamline the City's review and approval of appropriate power projects.

City Energy Programs

The City also has a number of programs to further promote energy conservation among residents and businesses in the City.

Silicon Valley Energy Watch (SVEW) program: The City of San José, PG&E, and Ecology Action are part of the Silicon Valley Energy Watch program. The program assists cities, non-profits, small businesses, community organizations, professionals, and residents in the County to take advantage of cost-saving, energy-efficient technologies. SVEW offers free energy audits, targeted retrofits, technical assistance, education, and training.

City of San José Green Building Policies: In 2001, the San José City Council adopted a series of Green Building Policies to demonstrate the City's commitment to the environmental, economic, and social stewardship and to yield cost savings to city taxpayers through reduced operating costs, to provide healthy work environments for staff and visitors, and to contribute to the City's goals of protecting, conserving, and enhancing the region's environmental resources. The Green Building Policy goals include a series in the category of energy and atmosphere. Energy and atmosphere policy goals are as follows:

- *Minimum Energy Performance:* establish the minimum level of energy efficiency for the base building and systems.

- *Optimize Energy Performance*: achieve increasing levels of energy performance above the minimum standard to reduce environmental impacts associated with excessive energy use.
- *Building Commissioning*: verify and ensure that the entire building is designed, constructed, and calibrated to operate as intended.
- *Measurement and Verification*: provide for the ongoing accountability and optimization of building energy and water consumption performance over time.
- *Renewable Energy*: encourage and recognize increasing levels of self-supply through renewable technologies to reduce environmental impacts associated with fossil fuel energy use.
- *Green Power*: encourage the development and use of grid-source, renewable energy technologies on a net zero pollution basis.
- *Reduce Ozone Depletion*: support early compliance with the Montreal Protocol by eliminating the use of CFC-based refrigerants and reducing the use of HCFCs and halons.

As part of its promotion of Green Building policies, the City encourages participation in City sponsored organized educational and training events covering green building topics to increase the use of green building techniques in municipal, commercial, and residential building development projects in the City and create greater awareness of these practices.

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).

3.4.2 Existing Conditions

The site is located within an urban area of San José approximately 0.8 miles south of Downtown San José and is bordered by residential uses to the north, south, east and west. The residences are a mix of single-family and multi-family. Interstate 280 runs south of the project site, South First Street to the west, East Reed Street to the North and an un-named Alley to the east. The existing project site has two surface parking lots, a single-story brick building used as an office and a two-story wood-framed building comprised of four residential apartments. There is some existing landscaping and trees on the proposed site, as well as an iron fence surrounding the northern parking lot.

ENERGY RESOURCES

The Pacific Gas and Electric Company (PG&E) provides natural gas and electricity services to the City, including the plan area, from a variety of renewable and non-renewable sources both within and outside of the State. Within the City's boundaries, there are a number of facilities that produce and transmit power throughout the City.

Energy consumption is analyzed in an EIR because of the environmental impacts associated with the project's production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil,

natural gas, coal, etc.) and emissions of pollutants during both the construction and operational phases of energy use.

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

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

Total energy usage in California was approximately 7,674 trillion Btus in the year 2015 (the most recent year for which this specific data was available).⁹ The breakdown by sector was approximately 18 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 39 percent for transportation.

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

ELECTRICITY

The bulk of California's electricity comes from power plants. In 2017, 56 percent of the state's electricity was generated by natural gas, 10 percent hydroelectric, 8.5 percent by nuclear, and less than one percent by coal and petroleum. Renewable sources such as rooftop photovoltaic systems, biomass power plants, and wind turbines, accounted for 25 percent of California's electricity.¹⁰

In 2016, total electrical system power for California was 290,567 gigawatt-hours (GWh), about 1.6 percent from 2015's total electrical system power of 295,405 GWh. In 2016, California's in-state electricity production (198,227 GWh) increased by 1 percent compared to 2015's in-state electricity production of 196,195 GWh.¹¹ This decline is consistent with the California Energy Demand Updated Forecast. California's in-state electric generation increased but net imports were down leading to an overall decrease in total generation for the year.¹²

PG&E is San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2016, renewable energy facilities including solar, geothermal, and biomass provided 33 percent of PG&E's electricity delivered to retail customers, nuclear plants provided

⁹ U.S. EIA. California Energy Consumption Estimates 2015. Accessed February 7, 2018. <http://www.eia.gov/state/?sid=CA#tabs-2>.

¹⁰ U.S. EIA. California Net Electricity Generation by Source August 2017. Accessed February 7, 2018. <http://www.eia.gov/state/?sid=CA#tabs-2>.

¹¹ CEC. Total System Electric Generation June 2017. Accessed February 7, 2018. http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html.

¹² CEC. California Energy Demand Updated Forecast 2017-2027. Accessed February 7, 2018. http://docketpublic.energy.ca.gov/PublicDocuments/16-IEPR-05/TN214635_20161205T142341_California_Energy_Demand_Updated_Forecast.pdf.

24 percent, natural gas 17 percent, 14 percent was unspecified, and 12 percent large hydroelectric operations.¹³ PG&E transmits and delivers electricity to approximately 15 million people throughout a 70,000 square-mile service area in California, including the City of San José and the plan area.

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. In 2016, electricity in Santa Clara County was consumed primarily by the commercial sector (77 percent); the residential sector consumed 23 percent. In 2016, a total of approximately 16,777 GWh of electricity were consumed in Santa Clara County.¹⁴ This is a 30 GWh decrease from 2015.

NATURAL GAS

In 2016, approximately 32 percent of the natural gas delivered for consumption in California was for electricity generation, 37 percent for industrial uses, 19 percent for residential uses, 11 percent for commercial uses, and less than one percent for transportation.¹⁵ As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2016, the State of California consumed approximately 2.18 million cubic feet of natural gas.¹⁶ Total natural gas consumption has been decreasing since a high of 2,352,421 million cubic feet in 2013.

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

GASOLINE FOR MOTOR VEHICLES

California is the third largest producer of petroleum among the 50 states in the United States, after Texas and North Dakota. In 2015, over 1,682 trillion gallons of motor gasoline were consumed in California.¹⁸ California has seen a downward trend in sales for gasoline, diesel, and jet fuel since 2012. It is anticipated this downward trend will continue due to high fuel prices, efficiency gains, competing fuel technologies, and mandated increases of alternative fuel use.

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 23.9 mpg in 2015.¹⁹ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, applies to cars and light trucks beginning in Model Year 2011.²⁰ In 2012, the

¹³ PG&E. Delivering Low-emission Energy. Accessed February 8, 2018. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

¹⁴ CEC, Energy Consumption Data Management System. Electricity Consumption by County. February 7, 2018. <http://ecdms.energy.ca.gov/electbycounty.aspx>.

¹⁵ U.S. EIA. Natural Gas Consumption by End Use. Accessed February 8, 2018. https://www.eia.gov/dnav/ng/ng_cons_sum_dcu_SCA_a.htm.

¹⁶ U.S. EIA. Natural Gas Summary. Accessed February 8, 2018. http://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.

¹⁷ CEC. *2013 Natural Gas Issues, Trends, and Outlook*. Accessed February 8, 2018. <http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf>.

¹⁸ U.S. EIA. California Net Electricity Generation by Source August 2017. Accessed February 7, 2018.

¹⁹ U.S. EPA. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed February 7, 2018.

https://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/national_transportation_statistics/html/table_04_23.html

¹⁹ U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 7, 2018. Available at:

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

²⁰ U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 7, 2018. Available at:

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

federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.²¹ According to the General Plan FPEIR, the City's average daily vehicle miles traveled (VMT) of 19,806,977 and an average fuel economy of 23.9 miles per gallon, approximately 828,744 gallons of gasoline (approximately 9.98 trillion BTUs) are consumed for motor vehicle travel in San José each year.

ENERGY USE OF EXISTING DEVELOPMENT

The electricity and natural gas used by the existing building on-site is estimated in Table 3.4-2: Estimated Annual Energy Use of Existing Development based on energy demand factors used in the California Emissions Estimator Model (CalEEMod).

Table 3.4-2: Estimated Annual Energy Use of Existing Development

| Development | Energy Demand Factors | Electricity Use (kWh) | Natural Gas Use (kBtu) |
|--|--|-----------------------|------------------------|
| 4,368 square foot residential building | 3,983.12 kWh/Sq Ft 3,155 kBtu/Sq Ft | 17,395.2 kWh | 40,795.4 |
| 4,655 square foot commercial building | 11.72 kWh/Sq Ft 0 kBtu/Sq Ft | 82,998.6 kWh | 76,202.3 |
| 11,370 square foot parking lot | 0.35 kWh/Sq Ft 0 kBtu/Sq Ft | 3,979.50 kWh | 0 |
| Total Existing Uses for site | | 104,373.3 kWh | 116,997.7 |
| Source: California Air Pollution Control Officers Association (CAPCOA). <i>CalEEMod User's Guide, Version 2016.3.1.</i> October 2017. Appendix D, Table 8.1. Climate Zone 4; Note: Existing residential building based on roof area from application. | | | |

As shown above, each year the existing building on-site uses are approximately 105,373 kWh of electricity and 116,997.7 kBtu of natural gas.

3.4.3 Energy Impacts

THRESHOLDS OF SIGNIFICANCE

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

- Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Implementation of the project would involve energy use (in the form of electricity, natural gas, and gasoline) during construction and operation of future development and infrastructure projects.

²¹ National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. Accessed February 8, 2018. <https://www.nhtsa.gov/press-releases/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standards>.

The following impact analysis includes a combined discussion for both Option 1 and Option 2 as impacts on energy conservation do not substantially differ between the two scenarios.

EN-1 *Would the proposed project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

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

The project proposes to remove the existing buildings on-site and construct a 283-foot high-rise, residential building with ground floor retail. Option 1 would include 290 residential units, approximately 4,800 square feet of retail space, 12,502 square feet of private open space, and 4,713 square feet of common open space. Option 1 proposes a four-story, below-grade parking garage and four-floor above-grade with a total of 232 parking stalls. Option 2 would include 850 bedrooms (equivalent of 607 residential units) and approximately 6,000 square feet of retail space. Option 2 proposes a four-story below-grade parking garage with 124 parking stalls and unlike Option 1, no above grade parking is proposed for Option 2.

Energy would be consumed during both the construction and operational phases of the project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition, excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Operation of the proposed building would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating.

OPERATIONAL IMPACTS FROM THE PROPOSED PROJECT

Table 3.4-3: Estimated Annual Energy Use of Option 1, summarizes the estimated energy use of Option 1.

Table 3.4-3: Estimated Annual Energy Use of Option 1

| Development | Electricity Use (kWh) | Natural Gas Use (kBtu) |
|---|------------------------------|-------------------------------|
| Condo/Townhouse High-Rise (290 units) | 1,272,520 | 2,505,440 |
| Enclosed Parking with Elevator (127,914 square feet) | 543,808 | 0 |
| Strip Mall (4,800 square feet) | 49,056 | 10,848 |
| Total: | 1,865,384 | 2,516,288 |
| Source: Air Quality/ Greenhouse Gas Technical Report, Michael Baker International. August 2018 (Appendix C) | | |

Table 3.4-4: Estimated Annual Energy Use of Option 2, summarizes the estimated energy use of Option 2.

Table 3.4-4: Estimated Annual Energy Use of Option 2

| Development | Electricity Use (kWh) | Natural Gas Use (kBtu) |
|--|-----------------------|------------------------|
| Condo/Townhouse High-Rise (607 units) | 2,465,510 | 4,578,330 |
| Underground Parking with Elevator (71,256 square feet) | 302,838 | 0 |
| Strip Mall (6,000 square feet) | 60,828 | 11,376 |
| Total: | 2,829,176 | 4,589,706 |
| Source: Air Quality/ Greenhouse Gas Technical Report, Michael Baker International, August 2018 and Kimley-Horn, June 2019 (Appendix C) | | |

Option 1 would result in a net increase of approximately 929 total daily traffic trips. The total annual VMT per capita for Option 1 is approximately 8.67, according to the Traffic Report prepared for this project (Appendix I). The total annual VMT per capita for Option 2 is approximately 6.29. The VMT is lower for the Option 2 because the co-living community development consists of a larger residential density and more affordable housing than the Option 1 traditional apartment scenario. Table 3.4-5: Annual Energy Demand Summary – Options 1 and 2, provided below compares the energy use that would result from the project with the energy use of the existing development.

Table 3.4-5: Annual Energy Demand Summary – Options 1 and 2

| Development | Electricity Use (kWh) | Natural Gas Use (kBtu) |
|--|-----------------------|------------------------|
| Option 1 | 1,865,384 | 2,516,288 |
| Existing Development | 104,373.3 | 116,997.7 |
| Option 1 Increase: | 1,761,010.7 | 2,399,290.3 |
| Option 2 | 2,829,176 | 4,589,706 |
| Existing Development | 104,373.3 | 116,997.7 |
| Option 2 Increase | 2,724,803 | 4,472,708 |
| Source: Air Quality/ Greenhouse Gas Technical Report, Michael Baker International, August 2018 and Kimley-Horn, June 2019. | | |

The existing uses onsite consume approximately 104,373 kWh of electricity, 116,997.7 kBtu annually of natural gas, and 19,455 gallons of gasoline annually. Option 1 would use increase electricity use by approximately 1,761,010.3 kWh, natural gas use by 2,399,290.3 kBtu. Option 2 would use increase electricity use by approximately 2,724,803 kWh, natural gas use by 4,472,708 kBtu. In addition, the project would be built to the 2016 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the two-year construction term), thereby improving the efficiency of the overall project.

As mentioned previously, the annual 290,567 GWh electricity use in California was projected to increase by approximately one percent each year through 2025. Option 1 would increase annual electricity use by approximately 1,761,010 kWh, or 1.76 GWh. Option 2 would increase annual electricity use by approximately 2,724,803 kWh or 2.72 GWh. Neither option would result in a substantial increase in demand on electrical energy resources in relation to project supply.

In 2016, California used approximately 2.18 million cubic feet of natural gas. It is assumed that energy efficiency technology and the RPS targets are likely to reduce demand for natural gas in the state in the future. Additionally, system and drilling efficiencies will continue to enhance production and decrease the overall need for natural gas. Based on the relatively small increase in natural gas demand from either Option 1 or Option 2 (2,399,290.3 kBtu and 5,140,435.3 kBtu per year, respectively) compared to growth trends in natural gas supply and the existing available supply in California, Neither Option would result in a substantial increase in natural gas demand relative to project supplies.

The California Department of Finance estimates 3.2 residents per household in San José.²² The existing residential use has 11 residents, while the project is expected to generate 928 new residents under Option 1. Under Option 2, 850 bedrooms (equivalent of 607 dwelling units) are proposed, which would result in more new residents (approximately 1,264 residents)²³ and higher population impacts. New automobiles purchased by future occupants of the project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. In addition, the project is in close proximity to major transit services located along the surrounding roadways and within walking distance of Diridon Station. The Convention Center light rail transit (LRT) station is located less than half a mile north of the project site on San Carlos Street and is directly accessible via South First Street/ Market Street. As a result, implementation of the project would not result in a substantial increase on transportation-related energy use.

ENERGY EFFICIENCY

CONSTRUCTION

The anticipated construction schedule assumes that the project would be built out over a period of approximately 24 months. The project would require demolition, grading, excavation, paving, and site preparation for construction of the proposed building. Based on data provided by the project applicant, the project would require up to 31,500 cubic yards of soil export under both Option 1 and Option 2.

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 project includes several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed in *Section 4.3, Air Quality* of the Initial Study (Appendix B) would restrict equipment idling

²² California Department of Finance Table 2: E-5 City/County Population and Housing Estimates. January 1, 2017. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>. Accessed October 17, 2017.

²³ Consistent with other co-living projects, the City of San José assumes 1.5 people per bedroom to calculate the anticipated number of residents. That value (1,275 residents) is divided by the average number of people per household in the Downtown, which is 2.1 (per Census data) to calculate the number of units towards the capacity of the Downtown Strategy 2040 FEIR. This would result in 607 units equivalent for this project.

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.

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

OPERATION

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

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

Under Option 1, the project is providing a total of 73 bicycle parking spaces and under Option 2, the project is providing 180 bicycle parking spaces, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the project would comply with existing state energy standards. The proposed project has offset its parking requirements through VMT reduction methods such as:

- Incentives for the using the VTA Transit Program;
- Encouraging a bicycle sharing program;

- Providing preferred parking for electric and carpool vehicles; and,
- Providing welcome packets for new tenants which includes information about public transit services, discount transit passes, bicycle maps, bike share locations, and rideshare programs.

By reducing single-occupancy traffic trips and including green design measures to achieve LEED certification, the proposed project would comply with existing State energy standards.

The project would not place a substantial demand on regional energy supply or require significant additional capacity, or significantly increase peak and base period electricity demand, or cause wasteful, inefficient, and unnecessary consumption of energy during project construction, operation, and/or maintenance, or preempt future energy development or future energy conservation.

EN-2 *Would the proposed project 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 City of San José requires a private sector new construction within the City to implement green building practices by meeting Applicable Projects criteria defined by Council Policy 6-32 as shown above. Under Option 1 and Option 2, the project would be LEED certified as required by Council Policy 6-32 and would achieve LEED NC v4 Certification through the USGBC. In addition, as discussed above, the inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the project would comply with existing state energy standards. Given that that project is consistent with the General Plan land use designation, is in proximity to transit, and includes green building measures, the project would not conflict or obstruct a state or local plan for renewable energy or energy efficiency.

3.4.4 Mitigation and Avoidance Measures

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

3.4.5 Conclusion

The project proposes a mixed-use development consisting of residential and ground floor retail, which would place new residences at an infill site in downtown San José. Both Option 1 and Option 2 would not result in significant energy impacts during project construction or operation, due to the inclusion of the proposed green building design features, the project would not result in the wasteful use of fuel or energy. The project would not result in a substantial increase in demand upon energy resources in relation to projected supplies.

SECTION 4.0 CUMULATIVE IMPACTS

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

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

4.1 CUMULATIVE PROJECT IMPACTS

THRESHOLDS OF SIGNIFICANCE

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts:

- Would the effects of all of the pending development listed result in a cumulatively significant impact on the resources in question? And, if that cumulative impact is likely to be significant,
- Would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts?

POTENTIAL CUMULATIVE IMPACTS

This section discusses whether the proposed would result in significant short-term or long-term environmental impacts when combined with other past, present, planned, and probable future projects in the area. Short-term impacts are generally associated with construction of the project, while long-term impacts are those that result from permanent project features or operation of the project. As the project impacts evaluated in this SEIR are the same for Option 1 and Option 2, the following cumulative analysis applies to both options.

Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. It is assumed that potential cumulative impacts would not occur in conjunction with other projects beyond this distance because of the nature of the project. Neither construction nor operation will result in impacts significant enough to be cumulatively considerable, particularly if the planned projects are greater than one mile away. This is true of the cumulative analysis for the project for all resource areas except for Transportation, where the cumulative impacts could occur up to two miles from the project, and air quality, and GHG emissions, where the project’s contribution to a cumulative impact within the City of San José, the greater air basin, and globally is discussed.

The geographic scope of the cumulative impact area is generally the SoFA District and the area to the west of the District between West San Carlos and SR-87 and south to the 1-280 freeway. This area was chosen because the project is within the SoFA district and development within this area would be subject to the same design and planning guidelines as the proposed project. The SR-87 and I-280 freeways function as a visual and physical barrier on two sides of the cumulative impact area.

Nine projects were identified for analysis as part of this cumulative analysis. These projects are summarized in Table 4.1-1: Cumulative Projects. This cumulative list includes the Museum Place project located just north of the SoFA District, but it was included in this list because of its similarity to the proposed project in terms of building height and its location on the South Market Street Corridor.

Table 4.1-1: Cumulative Projects

| Project | Location | Description | Impacts | Status |
|-------------------------|--|---|---|-------------------------------|
| Sparq Apartments | 5 East Reed Street (across Reed Street from project) | 7 stories, 105 units, 3,000 square feet of ground-floor retail. | No new impacts beyond what was identified in Downtown Strategy 2040 Plan | Under Construction |
| Second Street Hotel | 605 Second Street (0.1 mile from project site) | 7-story 90,263 square foot hotel with 106 guest rooms and two level of below grade parking. | Environmental documentation in process. | Planning Phase |
| Invicta Towers | 40 East William Street (0.2 mile from project site) | Demolish existing buildings and construct 667 residential units in three towers, a new live-performance art theater, and public arts spaces, along with the retail and dining. 1 million square feet total. | Environmental documentation in process. | Planning Phase |
| 477 South Market Street | 477 South Market Street (0.2 mile from project site) | Six-story mixed-use development with 130 residential units and approximately 5,000-square feet street of commercial space. | Environmental documentation in process. | Planning Phase |
| 226 Balbach Street | 226 Balbach Street (0.4 mile from project site). | Eight-story building with approximately 87 affordable residential units totaling approximately 95,463 square feet, | Environmental documentation in process. | Planning Phase |
| San Jose Tribute Hotel | 211 South First Street (0.4 mile from project site). | 24-story, 274-room hotel, integrated with the Montgomery Hotel | Environmental documentation in process. | Planning Phase |
| Gateway Tower | 493—480 South Market Street (0.2 mile from project site). | 25 stories, 308 residential units, 8,000 square feet of ground floor retail | Significant and unavoidable impacts on cultural resources and aesthetics. | Approved but not constructed. |

| | | | | |
|--------------|---|---|--|------------------------------|
| The Graduate | 300 South Second Street (0.5 mile from project site). | 19 stories, 260 units, 14,000 feet of ground floor retail. | No new impacts beyond what was identified in Downtown Strategy 2040 Plan | Under Construction |
| Museum Place | 201 South Market Street (0.7 mile from project site). | 24 stories, 1.16 million square feet, mixed-use building with residential units (306), hotel rooms (184), and office (209,395 square feet) retail space (13,400 square feet), and 60,475 square feet of museum expansion. | Significant and unavoidable impacts from shading on Plaza de Cesar Chavez. | Approved but not constructed |

Based on the analysis in this SEIR (including the Initial Study in Appendix B), the project would result in a less than significant impacts to aesthetics, agricultural/forestry resources, air quality, biological resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, noise, population and housing, public services, recreation, transportation, and utilities and service systems. The degree to which the project would add to existing or probable future impacts on existing land uses and/or resources would be negligible.

The project was found to have a significant and unavoidable impact on cultural resources as a result of demolishing the existing Pallesen Apartments building located at 8 East Reed Street and the relocating the City Center Motel Sign to the rooftop of the proposed building which are determined to have historical significance and is eligible for listing on the national and State registers. Additionally, the project would have significant and unavoidable impacts on the SoFA and First Street Commercial historic core districts as a result of the project's contribution to the increased high-rise developments within these districts.

None of the four cumulative projects that have been approved would result in any shading impacts on Parque de Los Pobladores. The other projects are not anticipated to have shading impacts given their location away from the park. Only one of the approved cumulative projects, the Gateway Tower project, was found to have significant impacts on historical resources. However, many of the other cumulative projects still under review include the demolition of existing buildings within the SoFA district. Therefore, it is reasonable to assume that some of these projects could result in significant impacts on historic resources. The Museum Place project was determined to have significant and unavoidable shade and shadow impacts on Plaza de Cesar Chavez Park. The proposed project is not located close enough to Plaza de Cesar Chavez Park to have any influence on the shading of the park.

Of the cumulative projects, the Sparq project and the proposed project are located the closest together. The Sparq project is currently under construction and is expected to be completed by 2019. As such, the two projects will not have overlapping construction schedules. The Graduate project is also under construction and is expected to be completed in the summer of 2020. A construction schedule for the Museum Place and Gateway Tower projects is unknown but it is reasonably foreseeable that construction could begin in 2019 or 2020. The proposed project could begin construction as early as 2019. There is some possible overlap in the construction schedules for The Graduate, Gateway Tower, Museum Place,

and proposed project. For the other projects that have not yet been approved, it is too speculative to predict when those projects might start construction at this time.

With regard to construction noise Gateway Tower, the Graduate, and Museum Place projects are located approximately 0.2-mile, 0.3-mile and 0.5-mile from the project site, respectively. Potential construction noise is considered to be less than cumulatively considerable given the distance between the projects. Furthermore, with construction already started on The Graduate project, most construction activities involving heavy equipment such as excavators, pavers, and cement trucks will have been completed by the time construction starts on the other two buildings. Similarly, the difference in construction schedules would also minimize potential construction air quality impacts, as the projects are unlikely to be using heavy construction equipment at the same time.

Therefore, potential cumulative impacts are considered less than cumulatively considerable and less than significant.

The Downtown Strategy 2040 FEIR evaluated potential cumulative impacts on a programmatic level to address broader cumulative impacts as a result of building the development envisioned in the plan. As this SEIR is a supplement to the previously certified Downtown Strategy 2040 FEIR, the project's cumulative contribution to plan-wide impacts such as traffic impacts, regional air quality impacts, long-term 2035 GHG impacts have already been disclosed as part of the cumulative impact analysis completed for the Downtown Strategy 2040 FEIR.

Implementation of the project would result in the demolition of one locally important residential building and one historic commercial building as well as the relocation of a locally significant neon road sign for the City Center Motel. The sign is representative of the mid-century development period and architecture. With implementation of the project, and other proposed projects in the SoFA district there would be fewer examples of this mid-century architecture in San Jose. Given that the Pallesen Apartments and Pallesen Building are unique early 20th Century local resources, the demolition of the buildings would result in a cumulatively significant historic building impact at a local level.

Impact CUL(C)-1: Demolition of the Pallesen Apartment and Pallesen Building, and relocation of the City Center Motel sign would result in a cumulatively considerable contribution to adverse impacts on historic resources.

MM CUL(C)-1: The project applicant shall implement MM CUL-1 through CUL-3.

Mitigation Measure MM CUL(C)-1 would mitigate some of the loss of historic resources; however, impacts related to the cumulative loss of historic buildings and change in the character of the historic areas would remain significant and unavoidable.

4.2 CONCLUSION

Implementation of the project, both Option 1 and Option 2, in combination with other past, present, and foreseeable project would result in a cumulatively considerable impact to locally historic buildings in San Jose as well as adversely affect the historic character and eligibility of the SoFA District and First Street Commercial historic core for future listing as historic districts. There is no mitigation reasonably feasible to reduce this impact to a less than significant level.

SECTION 5.0 GROWTH-INDUCING IMPACTS

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

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

The project, including both Option 1 and Option 2, are implementing a piece of a larger strategic plan for all of downtown and is consistent with planned downtown growth in the Downtown Strategy 2040 and the Envision San José 2040 General Plan. The growth-inducing effects of that planned development were already analyzed in the EIRs for those area and Citywide plans.

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

Under both options, development of the project site would place a new 27-story residential building with ground floor retail in the middle of a mixed-use area with surrounding retail and commercial/office, and nearby residential development. The proposed project would be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses.

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

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

SECTION 6.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

If either Option 1 or Option 2 is implemented, development of this site would involve the use of non-renewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Once the new development is complete, occupants would use some non-renewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water. Water consumption is currently low because the primary use of the site is two two-story structures and surface parking lots.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed residential project would be constructed to LEED NC v4 standards and US Green Building Council and would, as a result, use less energy for heat and light and less water than a standard building. In addition, the site is an infill location currently served by public transportation networks and within walking distance of jobs and services. The proposed project under Options 1 or 2 would, therefore, facilitate more efficient use of resources over the lifetime of the project.

SECTION 7.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following site- and project-specific significant unavoidable impact has been identified as resulting from both Option 1 and Option 2:

1. Implementation of the project would result in the demolition of the Pallesen Apartments located at 8 East Reed Street. This building is recommended eligible for listing in the NRHP and CRHR for its architectural significance.
2. Implementation of the project would result in the relocation of the City Center Motel Sign to the outdoor rooftop terrace will reduce the integrity and eligibility of the sign and result in a significant impact.
3. Implementation of the proposed project would result in the addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the First Street Commercial historic core. Therefore, this is considered a significant impact on historic resources.
4. Implementation of the proposed project would result in the addition of a modern high-rise building would result in significant adverse changes to adjacent and nearby historic resources and the historic character and eligibility of the SoFA District. Therefore, this is considered a significant impact on historic resources.

The following is the significant unavoidable cumulative impact has been identified as resulting from both Option 1 and Option 2:

1. Implementation of the project would result in a cumulatively considerable impact to locally historic buildings in San Jose as well as adversely affect the historic character and eligibility of the SoFA District and First Street Commercial historic core for future listing as historic districts.

All other significant impacts of the proposed project associated with the specific project site would be reduced to a less than significant level with the implementation of mitigation measures identified in this SEIR. The project would also contribute to the significant and unavoidable impacts associated with full buildout of the Downtown Strategy 2040 that were previously disclosed in the Downtown Strategy 2040 FEIR certified in 2018.

SECTION 8.0 ALTERNATIVES

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

In order to comply with the purposes of CEQA, it is necessary to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented while trying to meet most of the basic objectives of the project. The Guidelines emphasize a common-sense approach.

The alternatives shall be reasonable, shall “foster informed decision making and public participation,” and shall focus on alternatives that avoid or substantially lessen the significant impacts.

The objectives of the project are to:

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use, improving the efficiency of urban services, strengthening downtown as a regional job destination.
2. Promote and prioritize development that serves the needs of the entire City and valley.
3. Maximize use of an infill site by providing retail and residences in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
4. Efficient use of an underutilized site with new structures that will provide housing units in downtown San José.
5. Provide a mixed-use development that provides a pedestrian-oriented use that enlivens the streetscape of the downtown pedestrian network along South First Avenue and Reed Street in accordance with the Downtown Streetscape Master Plan.

Specifically, the project proponent has identified the following project objective:

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

The significant impacts identified in this SEIR, for both Option 1 and Option 2 include significant impacts associated with the demolition of the Pallesen Apartment Building, a building determined to have historic significance. The logical way to reduce this impact would be to relocate the building to another location. Therefore, a relocation alternative is discussed below. Additionally, significant impacts were identified with the relocation of the City Center Motel Sign to the outdoor rooftop terrace and impact to the First Street Commercial historic core from of the façadism of the Pallesen Building. Therefore, the historic structure preservation alternative is discussed below.

Alternatives to reduce or avoid the significant and unavoidable impacts resulting from buildout of the Downtown Strategy 2040 as a whole was presented in the 2018 FEIR and are not repeated here as they

are not relevant to the current decision-making for the proposed specific development project that is the subject of this SEIR.

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

ALTERNATIVES CONSIDERED AND REJECTED FROM FURTHER CONSIDERATION

As discussed previously in this SEIR, the project would result in significant, unavoidable impacts on historical structures as a result of demolishing the buildings onsite, relocating the City Center Motel sign to the building rooftop, and contributing to increased urbanization to the SoFA and First Commercial district. Some possible alternatives were considered to minimize those impacts, but for reasons of infeasibility were not considered further.

An adaptive reuse of the Pallesen Building alternative was considered where the building would remain in its current location and would be built into the proposed project. The Pallesen Apartment building would be demolished, and the City Center Motel sign would be relocated to the roof. The Pallesen Building's brick structure does not lend itself well to the structural modifications and reinforcements that would be required to make the building structurally sound to support a portion of a high-rise building. A design in which the new building would "bridge" over the Pallesen Building was considered but this would result in a significant loss of space for parking and would likely result on the loss of retail area to accommodate parking. Further preserving the building would make most of the proposed underground parking infeasible because of the constrained space. For these reasons, this alternative was not considered for further analysis.

An alternative that would move the Pallesen Building onsite to the southern edge of the property line, so the building could remain on the property was considered. The Pallesen Apartment would be demolished, and the City Center Motel sign would be relocated to the roof. But similar the adaptive reuse alternative described above, the building's brick structure does not lend itself to relocating very well. The amount of cost and effort it would take to move a brick building such a short distance would not be financially feasible, and the building would be at a significant risk for damage. Also similar to the alternative above, the loss of the available space for the proposed project would likely adversely affect the proposed underground parking structure and result on a loss of retail space to accommodate the project's parking needs. For these reasons, this alternative was not considered for further analysis.

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location." The proposed project is a mixed-use tower within the downtown core near transit, major roadways, and jobs and services. The impact identified is unique to the location of the project, because the Pallesen Apartment building is located on the project site. Other downtown locations, if there were properties available, would avoid this impact. However, those other properties are

themselves development opportunity sites that together with the subject project are anticipated for development as part of the Downtown Strategy 2040 FEIR, and so they are not truly alternative locations but rather other Downtown Strategy 2040 component sites. An alternative location would locate the subject project outside of the downtown, rather than simply move the proposed development to another downtown development opportunity site. Furthermore, most of the available parcels in the downtown core are already under consideration for redevelopment as part of the Downtown Strategy 2040 and would not likely be large enough to support the density proposed by the project. For these reasons, an alternative location was not analyzed.

A. No Project Alternative

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

The No Project – No Development Alternative would retain the existing buildings and continue the current operations. No development under Option 1 or Option 2 would occur. If the project site were to remain as is, there would be no new impacts.

Conclusion: Implementation of the “No Project” No Development alternative would avoid the significant impacts identified in this SEIR. The “No Project” alternative would not, however, allow for new high-density mixed-use development to be constructed on the project site consistent with the Envision San José 2040 General Plan and the Downtown Strategy 2040 Plan nor would it meet any of the project objectives listed above.

B. Pallesen Apartments Relocation Alternative

Under this alternative, the project would be the same as the proposed project with the exception that the Pallesen Apartments would be relocated off-site. The Pallesen Apartments would be moved to another location within the Downtown San José area and would be preserved and used as an apartment building similar to its current use. Under this alternative the Pallesen Building would be demolished (with façade preservation) and the City Center Motel sign would be relocated to the roof of the proposed building. This alternative would be the same for Option 1 and Option 2.

The number of available locations that can receive a historic building are limited. There are several factors that have to be taken into account when proposing to relocate building such as the Pallesen Apartments:

- The receiver site has to be of sufficient size for the building;
- The receiver site has to be available to receive the building;

There are also some physical limitations associated with moving a building the size of the Pallesen Apartments. Given the proximity of 8 East Reed Street to the I-280 and SR-87 freeways, the size of the building precludes it from being able to pass under the freeway on surface streets. Also, given the age and weight of the building, it could sustain significant damage during transport over significant distances during the relocation process.

It should be noted that beyond identifying a suitable property, that property must also have an owner willing to sell the property or receive the building. If a suitable site is found, then there must also be an

owner or operator who would be willing to maintain the building in order for it to maintain its historical value.

To ensure that the structural integrity of the building was preserved during the relocation process, the following condition of approval would be required to ensure potential impacts on the building would be reduced to less than significant.

HISTORIC RESOURCES – PALLESEN APARTMENTS RELOCATION

Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the applicant shall prepare and submit, to the satisfaction of the Director of Planning, Building and Code Enforcement in coordination with the City's Historic Preservation Officer, a historic preservation plan demonstrating that the following actions have been satisfied.

Documentation: The structure shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the *Secretary of the Interior's Standards for Architectural and Engineering Documentation* and shall consist of the following components:

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

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

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

Relocation by a Third Party: The following measures must be followed for the relocation of the Pallesen Apartments:

1. The City's Director of Planning, Building and Code Enforcement, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building.
2. Prior to relocation, the project applicant shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.
4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

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

Conclusion: Under this alternative, locating a potential site in the downtown area is possible and Pallesen Apartments could be relocated even with all of its physical constraints. The implementation of the conditions of approval would ensure the physical impacts associated with the relocation of the building would be minimized and that the important historical elements of the building would be documented and preserved for future research. The Pallesen Apartments Relocation Alternative would avoid the significant and unavoidable impact associated with the demolition and removal of the Pallesen Apartments. The Pallesen Building would still be demolished, and the City Center Motel sign would still be removed. This alternative would meet all of the project objectives for both Option 1 and Option 2.

C. Historic Structure Preservation Alternative

Under this alternative, all three structures would remain on the project site, the Pallesen Apartments, Pallesen Building, and City Center Motel sign. Each of these structures would remain in its current location, and buildings would retain their current use. The proposed project would be a residential development designed around these structures. Under this alternative, approximately 5,000 square feet of development area would be available for the site. The site could support a narrow building with a north-south orientation. The building would be three stories in height. The ground floor would have a small amount of retail area of approximately 1,500 square feet, a building lobby, and some mechanical and maintenance areas. The second and third floors would have approximately six residential units each for a total of 12 units. This design would allow for approximately one row of off-street parking consisting of about 8 parking spaces.

By preserving the onsite historic structures, this alternative would avoid potential impacts on historic resources, because the existing buildings would continue in their current use in their original location. The existing four residential units in the Pallesen Apartments building would remain. The Center City Motel sign would remain in its original location as well. By retaining the buildings, the project would also have an incrementally reduced impact on the increased urbanization and removal of historic structures in the SoFA and First Street Commercial historic core areas.

Conclusion: Under this alternative, potential impacts associated with the removal of the Pallesen Apartments, Pallesen Building, and City Center Motel sign for both Option 1 and Option 2 would be avoided and potential impacts on historical resources would be less than significant. The proposed project

had less than significant impacts on construction air quality, construction noise, traffic, and energy use. However, the Historic Structure Preservation Alternative with a reduced footprint and fewer units would have incrementally reduced impacts in all these areas.

This alternative would not fully meet the following project objectives:

- Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use, improving the efficiency of urban services, strengthening downtown as a regional job destination.
- Promote and prioritize development that serves the needs of the entire City and valley.
- Maximize use of an infill site by providing retail and residences in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
- Efficient use of an underutilized site with new structures that will provide housing units in downtown San José.
- Construct a high-quality development that is marketable and produces a reasonable return on investment for the Project Sponsor and its investors and is able to attract investment capital and construction financing.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative for both Option 1 and Options 2 is the Historic Structure Preservation Alternative because the project's significant and unavoidable impacts on historical resources would be avoided. The Historic Structure Preservation Alternative would not achieve most of the objectives of the proposed project.

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SECTION 10.0 LEAD AGENCY AND CONSULTANTS

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