Supplemental EIR

Almaden Office Project

File No. SP20-005

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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ENVIRONMENTAL CONSULTANTS & PLANNERS

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SUMMARY

The site is currently a pay-to-park public parking lot. The project proposes construction of up to approximately 1,727,777 square feet of office in two 16-story towers. 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 *Section 2.0 Project Information and Description* and *Section 3.0 Environmental Setting, Impacts, & Mitigation*.

Significant Impacts	Mitigation Measures
Air Quality	
Impact AIR-1: Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**	**MM AIR-1.1:** Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards. • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in

	exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following: • List of activities and estimated timing. • Equipment that would be used for each activity. • Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure. • How the construction contractor will ensure that the measures listed are monitored. • How the construction contractor will remedy any exceedance of the thresholds. • How often and the method the construction contractor will use to report compliance with this mitigation measure. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading

	and/or building permits (whichever occurs earliest).
Impact AIR-2: Construction and operational activities associated with the proposed project would expose the off-site maximum exposed individual (MEI) to cancer risk in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**	**MM AIR-2.1:** Prior to installation of any emergency generator, the project applicant shall submit documentation that demonstrates the equipment used on-site includes diesel particulate matter filters (DPM) that achieve a minimum 85 percent reduction in particulate matter emissions or submit documentation that has been reviewed and approved by the City demonstrating that the project generators will not increase lifetime cancer risk by 10 cases per one million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures: • Placement of the equipment; • Placement and orientation of the exhaust stacks; • Application of exhaust controls such as DPM filters that reduce DPM by 85 percent; and/or • Limitation to the operation hours to less than 50 hours per year.
Cumulative Air Quality	
Impact AIR(C)-1: The maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources. **[Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)]**	Same as Mitigation AIR-1.1.
Biological Resources	
Impact BIO-1: The proposed building design would result in bird collisions with the building's northern, western, and southern façades. **[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact with Mitigation)]**	**MM BIO-1.1:** Due to the potential for the proposed towers on the project site to result in a high number of bird collisions, prior to the issuance of any building permits, the project applicant shall implement the following bird-safe building design considerations at the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot riparian setback to comply with LEED Pilot Credit 55: Bird Collision Deterrence:

	• At a height of 0 to 36 feet above-grade and 0 to 12 feet above any green roof, no more than 15 percent of the glazed area shall have a Threat Factor1 higher than 75. • All glazed corners or fly-through conditions, created when windows meet perpendicularly on a corner or when windows are installed parallel in close proximity such that a clear line of sight is created through the building, shall have a Threat Factor less than or equal to 25. • All structures other than the main building(s) on-site, including but not limited to handrails, guardrails, windscreens, noise barriers, gazebos, pool safety fencing, bush shelters, band shells, etc., shall be constructed entirely of materials with a Threat Factor of 15 or lower. • The combined façades shall achieve a maximum Bird Collision Threat Rating of 15 or lower. • The project applicant shall develop a lighting design strategy to effectively eliminate or reduce light trespass from the building by either requiring that all interior lighting must be turned off by night-time personnel after hours when the space is unoccupied or controlled automatic shutoffs such that all lighting shall automatically shut off after the space is unoccupied for 30 minutes (with exceptions). • The project applicant shall develop a lighting design strategy to effectively reduce or eliminate light trespass from exterior fixtures, either by shielding fixtures and programing them to

[1] A material's Threat Factor is assigned by the American Bird Conservancy, and refers to the level of danger posed to birds based on birds' ability to perceive the material as an obstruction, as tested using a "tunnel" protocol (a standardized test that uses wild birds to determine the relative effectiveness of various products at deterring bird collisions). The higher the Threat Factor, the greater the risk that collisions will occur. An opaque material will have a Threat Factor of 0, and a completely transparent material will have a Threat Factor of 100.

	automatically shut off from midnight until 6:00 AM or demonstrating that the project complies with the exterior lighting requirements of the latest published LEED for New Construction SS Credit, Light Pollution Reduction. • The project applicant shall develop a three-year post-construction monitoring plan to routinely monitor the effectiveness of the building and site design in preventing bird collisions. **MM BIO-1.2:** Prior to issuance of any building permits, the applicant shall submit a verification letter or plan to the Director of Planning, Building and Code Enforcement or Director's designee to ensure that all identified bird-safe design considerations have been met. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building design, as proposed, complies with LEED Pilot Credit 55: Bird Collision Deterrence.
Impact BIO-2: The project does not meet the biological goals and objectives of the Santa Clara Valley Habitat Plan (SCVHP) and would conflict with the SCVHP stream setback requirements. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**	There are no feasible mitigation measures available to reduce this impact except for redesign to increase the setback from the riparian corridor.
Cumulative Biological Resources	
IMPACT BIO(C)-1: Construction and operation of the new buildings within 35 feet of the edge of the riparian corridor would result in a cumulatively considerable contribution to the Guadalupe River as a whole. **[New Cumulative Significant Unavoidable Impact (Less Than Significant Cumulative Impact)]**	**MM BIO(C)-1.1: Compensation.** Prior to the issuance of any grading or building permits, the project applicant shall provide compensatory mitigation to offset project impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided as follows: Riparian habitat shall be enhanced or restored to native habitat along the immediately adjacent

	riparian corridor[2], and/or off-site on the Santa Clara Valley floor and within the City of San José[3], at a minimum ratio of 2:1 (compensation:impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback. **MM BIO(C)-1.2: Riparian Habitat Mitigation and Monitoring Plan.** Prior to the issuance of any grading or building permits, the project applicant shall submit a *Riparian Habitat Mitigation and Monitoring Plan* (Plan) that describes the mitigation that shall be performed for on-site or off-site restoration/enhancement shall be prepared. The Plan shall be prepared and verified by a qualified biologist. The Plan shall include, but is not limited to, the following: • Summary of habitat impacts and proposed mitigation ratios • Goal of the restoration to achieve no net loss of habitat functions and values • Location of mitigation site(s) and description of existing site conditions • Mitigation design which includes: o Existing and proposed site hydrology o Grading plan if appropriate (including bank stabilization or other site stabilization features) o Soil amendments and other site preparation elements as appropriate o Planting plan o Irrigation and maintenance plan o Remedial measures and adaptive management • Restoration/enhancement/mitigation design that is provided along the

[2] The applicant shall obtain permission from the City of San José and/or the Santa Clara Valley Water District (Valley Water) to restore/enhance the riparian corridor immediately adjacent to the project site. Valley Water may not grant permission for this work, as they often look for such opportunities as mitigation for their own projects.
[3] The proposed off-site mitigation may not be feasible if a suitable location cannot be found within the City of San José. Properties owned by the City where the restoration/enhancement may be possible include Kelley Park and Lake Cunningham Park.

	immediately adjacent riparian corridor shall, at the minimum, consist of the removal of non-native trees, shrubs, and vines and the planting of native riparian vegetation. Acreage will be credited based on the extent of nonnative vegetation removed. • All restoration/enhancement along the adjacent Guadalupe River shall be conducted within the existing riparian canopy and not on the project site itself (i.e., not within areas that are currently paved) due to the presence of the Guadalupe River Trail. The Guadalupe River Trail separates the existing riparian vegetation from the site and precludes the creation of high-quality riparian habitat on-site. • Off-site restoration/enhancement must restore or augment high-quality riparian habitat for birds. Such restoration shall need to occur in an area with sufficient setbacks and appropriate soils and hydrology to support high-quality riparian vegetation. • The Plan shall also include final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of riparian vegetation type (e.g., dominance by natives) and extent appropriate for the riparian restoration location, and provision of ecological functions and values equal to or exceeding those in the riparian habitat affected. At a minimum, success criteria shall include following: o At Year 10 post-planting, canopy closure at the mitigation site shall be at least 60 percent of the canopy closure at a nearby reference site (i.e., a site supporting the same habitat type

	as that being established at the mitigation site). Monitoring methods and frequency shall be outlined in the Plan. The Plan shall include monitoring between Years 1 and 10 to document progress toward meeting the success criteria so that any necessary remedial actions can be taken to ensure that the success criteria are met. Monitoring beyond Year 10 shall be necessary if the success criteria is not met by Year 10, as monitoring is required until all success criteria defined in the Plan have been met. The Plan shall be implemented within one year following project impacts on riparian woodland. In addition, a letter signed by a qualified biologist accompanying the Plan shall be submitted to and approved by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading and building permits (whichever occur the earliest).
Hazards and Hazardous Materials	
Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM HAZ-1.1:** Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant or its contractor shall enter the Site Cleanup Program (SCP) with the Santa Clara County Department of Environmental Health (SCCDEH) to evaluate the past uses of the property. As part of the SCP, an initial kick-off meeting will be held with SCCDEH staff who will review the April 2019 Phase I Environmental Site Assessment by *Haley & Aldrich, Inc.* and the proposed development. Based upon this review, the SCCDEH may require a Phase II Environmental Site Assessment, a Soil and Groundwater Management Plan, and/or other studies to ensure the proposed development is safe for construction workers and future site occupants.

	Prior to the issuance of demolition, grading, or building permits (whichever occurs first), the applicant or contractor shall submit proof of coordination with the SCCDEH and entrance into the SCP to the Director of Planning, Building and Code Enforcement, or Director's designee, and the Municipal Compliance Officer.
Noise	
Impact NOI-1: Project construction would last for a period of more than 12 months which would impact residents and nearby land uses. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices: • In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities. • Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José

	Municipal Code Section 20.100.450). Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. • Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps. • 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 shall be strictly prohibited. Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible). • 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. • Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project

	construction. • A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. • Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. • Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences • Designate a "disturbance coordinator" who 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 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 it in the notice sent to neighbors regarding the construction schedule.

Impact NOI-2: Nighttime construction activities which include up to twelve (12) 24-hour concrete pours would impact up to 11 single-family residences located south and southeast of the project site. **(New Less Than Significant Impact with Mitigation)**	**MM NOI-2.1:** Prior to issuance of any building permits and during all nighttime[4] construction activities, the project applicant shall implement the following measures to reduce nighttime noise impacts at nearby noise-sensitive residences: • Limit the active equipment to as few pieces of equipment as possible. • To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours and/or the work sites shall be arranged to avoid the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to five dBA above the ambient near the operating equipment). • Nighttime concrete pouring shall be restricted to the northernmost equipment location as shown in Figure 3.3-2 of this document or Figure 6 of Appendix G of this SEIR or a minimum distance of 270 feet from the southern and northern boundaries. No concrete trucks and pumps shall be operated along Woz Way during all nighttime activities. • If nighttime construction noise results in excessive disruption, as defined below, to the 11 nearby residences after implementation of the aforementioned measures, the project applicant will be required to implement a construction noise monitoring plan. "Excessive disruption" as used in Mitigation Measure NOI-2.1 is defined as noise levels that are five dBA or more over the identified thresholds of 63 dBA L_{eq} exterior noise level at the first row of south residences and hotel; and 53 dBA L_{eq} at the southeast residences. The plan

[4] Nighttime hours include hours outside of the City's allowable construction hours of 7:00 AM to 7:00 PM.

	will include a provision for noise monitoring at the identified receptors, measured from the residential property line, to confirm that nighttime construction noise levels meet the applicable thresholds at the single-family residential land uses. Specifically, construction monitoring shall occur for the first two days of nighttime construction after initiation of the plan to demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds. If additional complaints are received after confirmation of the construction noise levels, additional monitoring will be required at regular intervals as outlined in the plan. In the event of noise complaints, the contractor will provide information (e.g., noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds) to the project applicant and the City within 48 hours of being notified of the complaint. The construction noise monitoring plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of building permits. • Sensitive receptors identified by the noise monitoring plan with the potential to be exposed to nighttime construction noise levels exceeding 63 dBA L_{eq} at the southern residences or 53 dBA L_{eq} at the southeastern residences, shall be provided with vouchers for alternate accommodations for the specific dates that nighttime construction is scheduled. • Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the nighttime construction schedule, in writing, at least seven days prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints

	about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the liaison shall be conspicuously posted at the construction site.

Summary of Alternatives to the Proposed Project

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives is provided in Section 7.0 Alternatives Analysis.

Location Alternative

The alternative location should be large enough to support high-density office and be located within the downtown area. It is reasonable to assume that there are two sites (Valley Title lot at 300 South First Street and the San Pedro Square lot located at 64 North Market Street) in the downtown area that are large enough to support the office development proposed on-site. Due to the location of these two sites, the proposed office development would avoid impacts to the riparian corridor. If the surface lots at the alternative sites were to be redeveloped with the project, it is reasonable to assume that all construction-related air quality impacts would be the same. This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area.

No-Project – No Development Alternative

The No Project – No Development Alternative would retain the existing pay-to-park public parking on-site as is. If the project site were to remain as is, the significant impacts of the project would not occur.

It is possible that in the future an alternative development proposal, such as another office building, may be presented for the project site. The office development would be comparable in density to scale to what is currently proposed, assuming that any proposal would try to maximize development on-site consistent with the development anticipated in the downtown area. Any future development proposals for the site would require review and approval by the City of San José.

Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback

Under this alternative, the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a combined office and amenity space square footage of 1,659,795 square feet[5]

[5] Includes the basement square footage.

as shown in the figure below. This alternative would include four levels of below-grade parking for a total of 1,148 parking spaces. The proposed building would be set back from the Guadalupe River riparian corridor by 35 feet.

It is reasonable to assume that if the buildings were reduced to a size equivalent to the Greyhound Residential Project, the significant unavoidable air quality impacts from construction would be reduced to a less than significant level with mitigation. With a total square footage 1.3 million and an additional floor of underground parking, this alternative would have the same construction air quality impacts as the proposed project.

The reduction in building size would provide a greater setback from the riparian corridor compared to the proposed project. The significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and implement Mitigation Measure BIO(C)-1.1.[6] Additionally, although construction would likely take more than 12 months (General Plan Policy EC-1.7) under this alternative, the sensitive receptors and adjacent land uses would be exposed to construction noise for a shorter time frame. All other impacts would remain the same.

Reduced Development Alternative 1 (Option 2) – Reduced Square Footage With 100 Foot Setback

Under this alternative, the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a combined office and amenity space square footage of 828,070 square feet[7] as shown in the figure below. This alternative would include six levels of below-grade parking for a total of 562 parking spaces. Unlike the *Reduced Development Alternative Option 1*, the proposed building would be set back from the Guadalupe River riparian corridor by 100 feet.

As noted in under the *Reduced Development Alternative 1 (Option 1)*, a project that is less than 1.0 million square feet would be able to reduce construction air quality impacts to a less than significant level with mitigation. This alternative would have six levels of below-grade parking, which would require more extensive excavation than the proposed project. Nevertheless, since the square footage under this alternative would be substantially reduced to 828,070, the significant unavoidable air quality impacts from construction and operation would be reduced to a less than significant level with mitigation.

Since the setback proposed under this alternative would not encroach within 100 feet of the riparian corridor, this alternative would avoid the significant unavoidable cumulative impact to the Guadalupe River riparian corridor as a whole. All other impacts would remain the same.

Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height

Under this alternative, the office towers would be built to the maximum allowable height, consistent with the General Plan designation, with a smaller building footprint. Similar to the *Reduced Development Alternative 1*, the reduction in the building footprint would allow for a greater setback from the riparian corridor. The significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and implement

[6] Carle, Robin. Associate Ecologist, H.T. Harvey & Associates. Personal communications. February 21, 2020.
[7] Includes the basement square footage.

Mitigation Measure BIO(C)-1.1. Since the office towers would be taller than what is currently proposed, it is reasonable to assume that the sensitive receptors and adjacent land uses would be exposed to construction noise for a longer time frame. Under this alternative, construction activities would expose off-site receptors to $PM_{2.5}$ emissions in excess of BAAQMD thresholds. The maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources. The air quality impacts would remain significant and unavoidable.

Areas of Public Controversy

Areas of public concern include:

- Impacts to Guadalupe River riparian corridor
- Shade and shadow on Guadalupe River trail and Discovery Meadow Park
- Intersection operation/traffic

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) for the Almaden Office Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

1.2 SEIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, City of San José prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, state, and federal agencies on May 24, 2019. The standard 30-day comment period concluded on July 1, 2019. 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 also held a public scoping meeting on June 10, 2019 to discuss the project and solicit public input as to the scope and content of this SEIR. The meeting was held at the Lee and Diane Brandenburg Theatre at the Children's Discovery Museum located at 180 Woz Way, San José, CA 95110. Appendix J of this SEIR includes the NOP and comments received on the NOP.

1.2.2 Draft SEIR Public Review and Comment Period

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

Kara Hawkins, *Environmental Project Planner*
Kara.Hawkins@sanjoseca.gov
(408) 535-7852
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

1.3 FINAL SEIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City 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 Draft SEIR;
- Responses to comments received on the Draft SEIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft 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.

1.3.1 Notice of Determination

If the project is approved, the City will file a Notice of Determination (NOD) within five days of project approval, which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office and available for public inspection 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)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The approximately 3.57-acre project site is comprised of 18 parcels (APNs 264-28-019, -022, -023, -024, -025, -028, -149, -152, -153, -160, -167, -168, -169, -172, -173, -174, -175, and -176) and is bounded by Guadalupe River and Guadalupe River Trail to the west, an office building to the north, South Almaden Boulevard to the east, and Woz Way to the south in downtown San José. The site is currently a pay-to-park public parking lot. Refer to Figures 2.1-1 to 2.1-3 for the regional, vicinity, and aerial maps.

2.2 PROJECT DESCRIPTION

The project would demolish the existing parking lot and construct up to approximately 1,727,777 square feet of office in two 16-story[8] towers (North Tower and South Tower). Both towers would have a maximum height of 283 feet to the top of the parapet and would be connected via a podium building on floors one to four. Amenity/food and beverage space would be located on the ground floor of both towers. The total floor area ratio (FAR) of both buildings combined would be 11.1.[9] Refer to Figures 2.2-1 to 2.2-3 for the site plan and elevations.

The North Tower would be approximately 641,340 square feet and would be comprised of approximately 586,663 office space and 13,885 square feet of amenity/food and beverage space. The North Tower would have approximately 39,046 square feet of terrace space. The proposed office space would be located on floors two to 15.

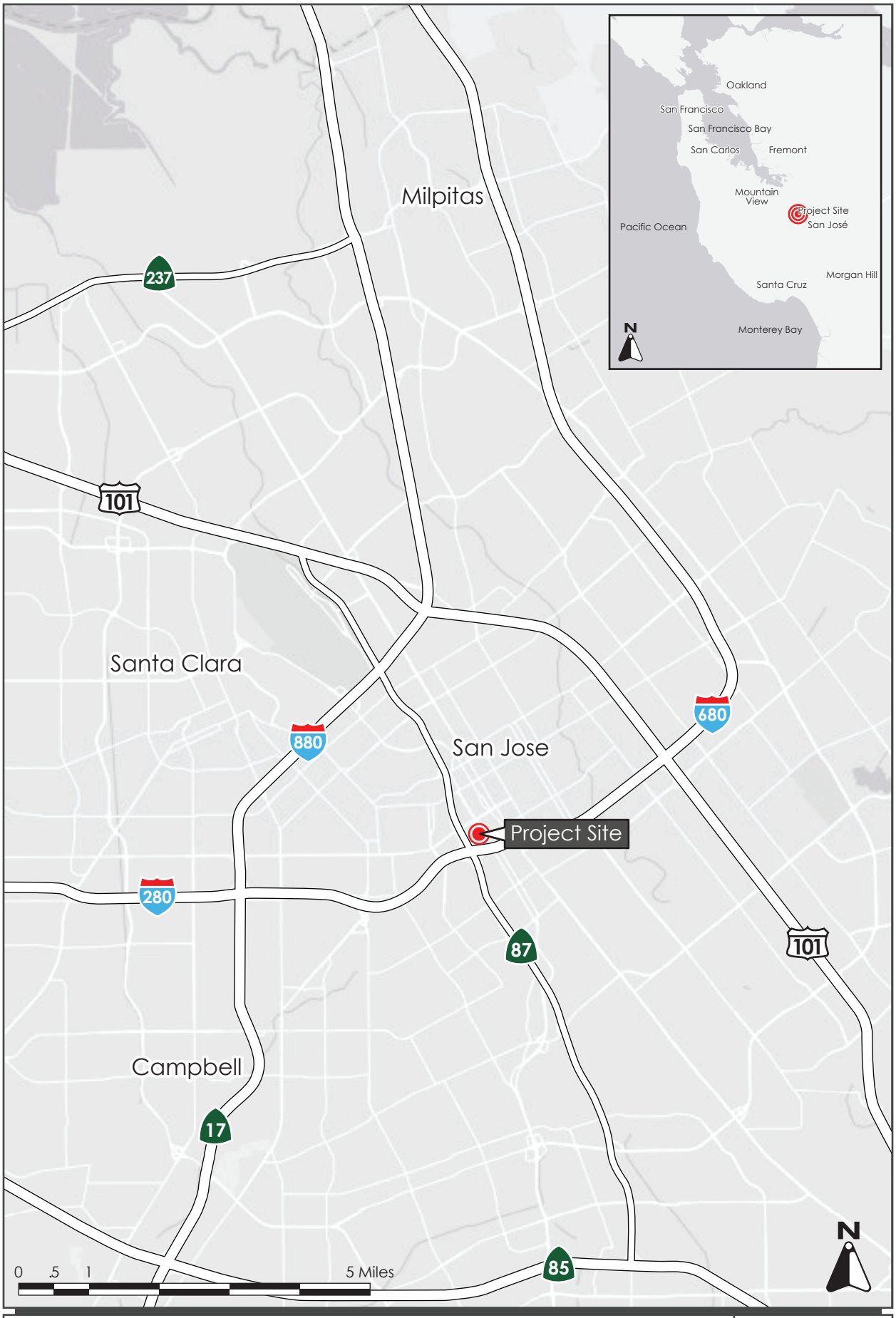
The South Tower would be approximately 984,519 square feet which includes approximately 900,452 square feet of office space and 25,252 square feet of amenity/food and beverage space. The South Tower would have approximately 62,872 square feet of terrace space. The proposed office space would be located on floors two to 15.

Site Access, Parking, and Circulation

The site is currently accessed by a single driveway on Woz Way. The Woz Way driveway would be removed and replaced with a full-access driveway located north of the Locust Street/Woz Way intersection. In addition, a right-in/right-out only driveway along South Almaden Boulevard is proposed at the northeast corner of the project site which would be restricted to trucks only and would provide access to the loading docks to the second below-grade parking garage. In addition, another full access driveway is proposed at the South Almaden/Convention Center intersection. The project proposes three levels of below-grade parking for a total of 1,343 parking spaces. Additionally, the project proposes a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project frontages on Almaden Boulevard and Woz Way.

The project proposes a total of 319 bicycle spaces. There would be bicycle parking rooms located on the ground floor and a bicycle rack with space for six to 10 bicycles along the western project frontage.

[8] Includes the mechanical penthouse floor.
[9] 1,727,777 combined square footage of both towers / 155,509 square feet of site area = 11.1 FAR



REGIONAL MAP | FIGURE 2.1-1

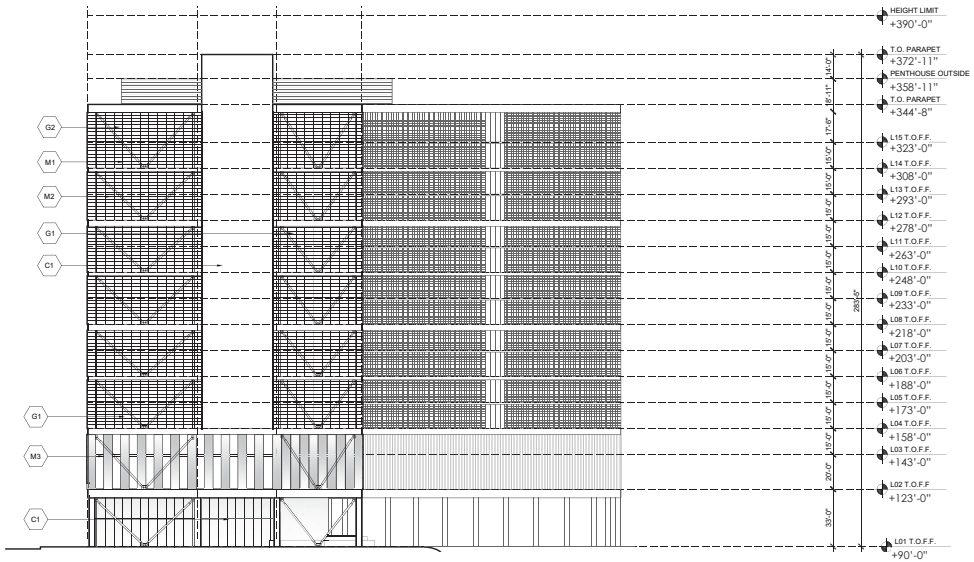
VICINITY MAP | FIGURE 2.1-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3

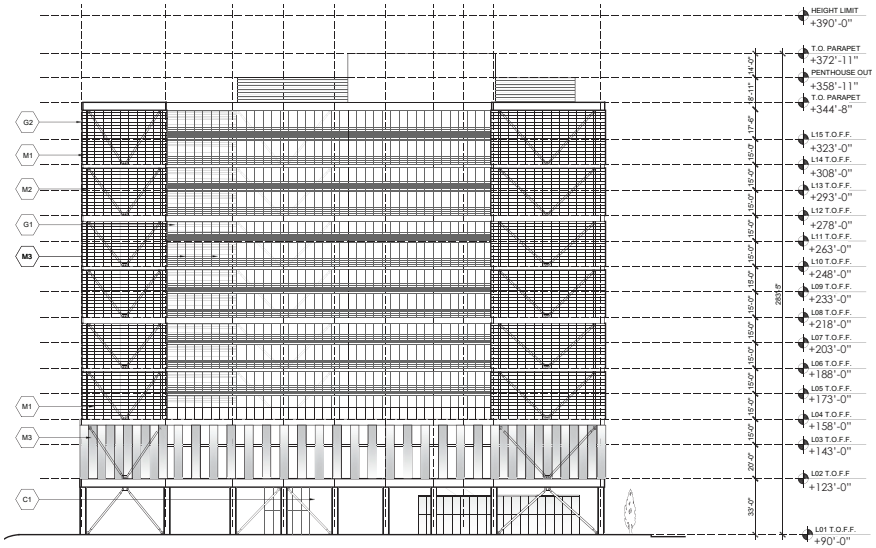
SOUTH ALMADEN BLVD

SITE PLAN - GROUND LEVEL

FIGURE 2.2-1



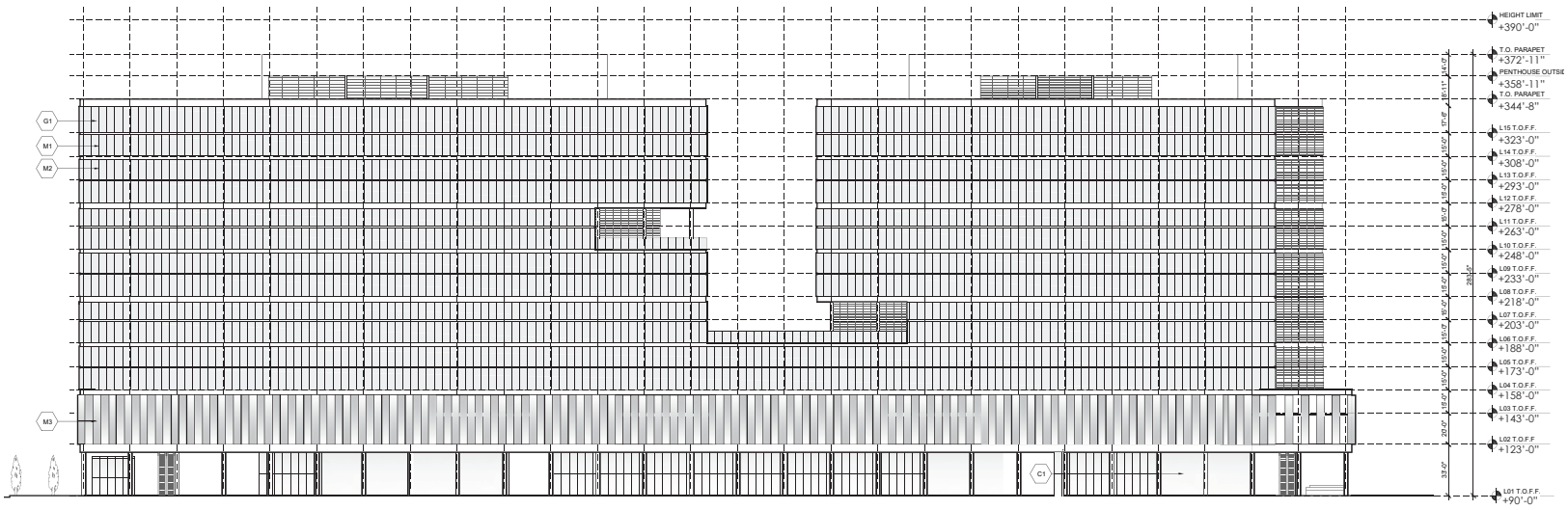
NORTH ELEVATION



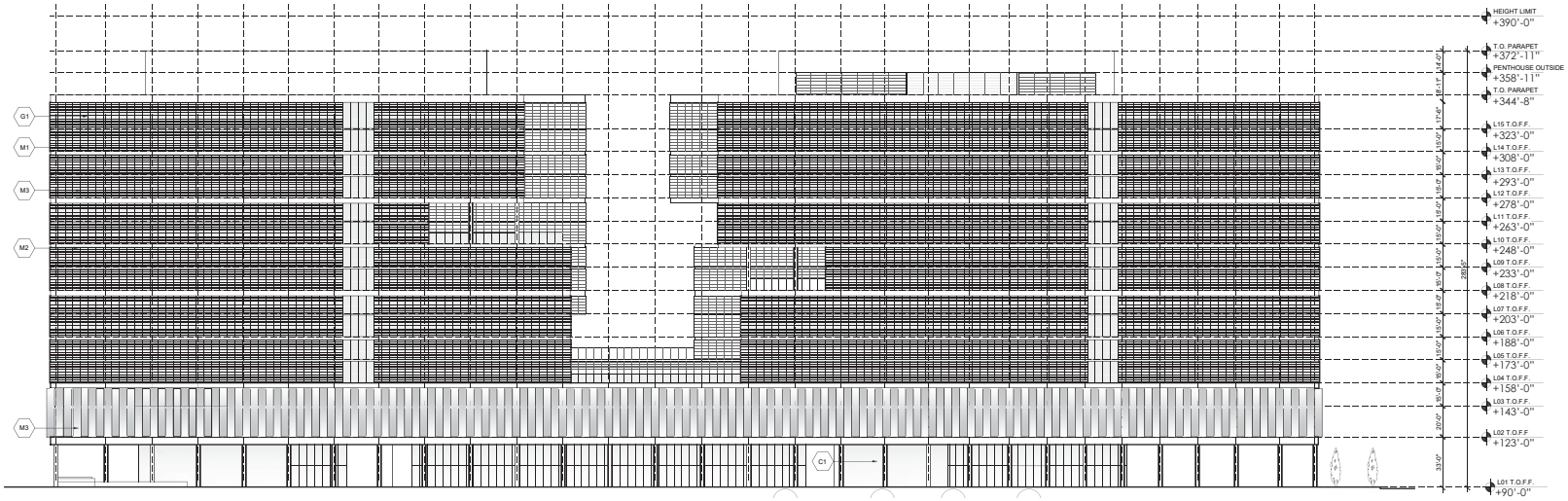
SOUTH ELEVATION

ELEVATIONS - NORTH & SOUTH

FIGURE 2.2-2



EAST ELEVATION



WEST ELEVATION

ELEVATIONS - EAST & WEST

FIGURE 2.2-3

Utility Improvements

The project includes three storm drain relocation options (Options A, B, and C) as discussed below.[10]

Under Option A, the current option, a storm drain main head and a sanitary sewer main head is proposed along South Almaden Boulevard. The project would remove the existing 30-inch storm drain that bisects the northern portion of the site and construct a temporary storm drain realignment along the northern and western portion of the site which would connect to the existing outfall. Once the applicant receives approval from the appropriate federal agencies, the portion of the storm drain that runs parallel to the river (west of the site) would be removed and a new outfall north of the site would be constructed.

Under Option B, the storm drain line would be located south of the site, along Woz Way and a new permanent outfall would be constructed north of the bridge at Woz Way.

Under Option C, the storm drain line would remain in its current location (bisecting the northern portion of the site).

Mechanical Equipment

Based on the site plan provided, back of house operations, primary switchgear, pump, service, and substation rooms would be located in the below-grade parking levels. The emergency electrical, emergency generator, and additional back of house operations rooms would be located on the ground floor. Electrical rooms would be located on floors two through 15. A mechanical penthouse which would consist of electrical rooms, cooling towers, and solar panels would be located on floor 16.

General Plan and Zoning Designations

The *Downtown* designation includes office, retail, service, residential, and entertainment uses in the downtown area. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The residential component within the *Downtown* designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum FAR of 30.0 and up to 800 dwelling units per acre.

Under the *DC – Downtown Core Primary Commercial* zoning designation, development shall only be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements.

Please refer to *Section 4.10 Land Use and Planning* for a complete discussion of the project's consistency with the General Plan and zoning designation.

[10] The applicant and project contractor have confirmed that all three options fit within the proposed construction schedule. Verrips, Joanne. Director – Precon & Estimating,Webcor. Personal communications. July 22, 2020.

Green Building Measures

The project would be required to be built in accordance with the California Building Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance.

Transportation Demand Management

Transportation Demand Management (TDM) programs are intended to reduce vehicle trips and parking demand by promoting the use of multimodal transportation options. By implementing TDM programs, land use authorities would use available transportation resources more efficiently. The proposed project could propose a number of TDM measures as listed in the City's Municipal Code (refer to Sections 20.90.220.A and 20.70.330.A of the City's Municipal Code). The project proposes the following TDM measures[11]:

- Transit use incentive program for employees
- On-site support service (e.g., ground floor food/beverage-serving uses)
- On-site showers and lockers to serve all employees

Construction

Construction of the proposed project is estimated to begin in 2021 for a period of 51 months. The applicant proposes extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period.

2.3 PROJECT OBJECTIVES

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

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 of locating usable[12] high density development on infill sites along transit corridors. Key to meeting these goals is bringing people to the downtown area to foster transit use and the efficiency of urban services and strengthen downtown as a regional job, entertainment, residential, and cultural destination and as the symbolic heart of San José.

2. Advance the principal of "Smart Growth" by replacing a surface parking lot with a new high-density office campus with amenity/retail, public space and associated parking.

[11] The tenant occupying the office space (to be determined later) could propose and maintain additional TDM measures. Hexagon Transportation Consultants, Inc. *South Almaden Office Towers Development Transportation Demand Management Plan*. January 23, 2020.

[12] Based on a proforma analysis provided by the applicant, usable space is defined as having an optimal floorplate size of at least 40,000 square feet for Class A office buildings.

3. Provide Class A office, amenity/retail, and public space that supports employment and activity; thereby increasing the job base within the downtown and contribute to the economic feasibility of San José.

4. Construct and program active space at street level with amenity/retail spaces that are pedestrian oriented to enliven the streetscape of the downtown pedestrian network along Almaden Boulevard and create a lively ground level experience for pedestrians.

5. Provide publicly accessible courtyards and pedestrian paseos that will serve as a community recreational and gathering space and to connect the surrounding neighborhood with the Guadalupe River.

6. Maximize use of an underutilized infill site by providing office, amenity/retail, and public space in an area served by various modes of public transportation such as the Caltrain, VTA light rail and buses, and planned BART extension to downtown; thereby creating opportunities to reduce vehicle miles traveled.

7. Provide a project with optimal self-park and/or valet parking spaces to service the office, amenity/retail, and public space for ease and efficiency and to meet the needs of the project.

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

9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

10. Improve street frontages and landscaping along the boundaries of the project on both sides, along Almaden Boulevard and along the Guadalupe River to standards consistent with the General Plan.

2.4 USES OF THE SEIR

This SEIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this SEIR:

- Special Use Permit
- Demolition, Grading, and Building Permit(s)
- Other Public Works Clearances

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

3.1 Air Quality
3.2 Biological Resources

The Initial Study completed for the project, which is included as Appendix A to this SEIR, includes a discussion of impacts related to the following environmental subjects: Aesthetics, Agricultural and Forestry Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise and Vibration, Population and Housing, Public Services, Recreation, Transportation/Traffic, Tribal Resources, Utilities and Service Systems, and Wildfire.

The discussion for each environmental subject includes the following subsections:

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

Impact Discussion – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.
- **Impact Conclusions** – Because the analysis in this SEIR tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project specific analysis is presented as it relates to the findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.
- **Cumulative Impacts** – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively

considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). 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 (CEQA Guidelines Section 15130(b)(1)). This EIR uses the list of projects approach.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 provides a summary of the approved but not yet constructed/occupied and pending projects within 0.5 miles radius of the project site.

Table 3.0-1: Summary Project List Within Half-Mile Radius

Project Name	Location	Description
Approved But Not Yet Constructed/Occupied		
335 West San Fernando Street	335 West San Fernando Street	Construction of an approximately 1,315,000-square foot building, 690,328 square feet of research and development and office use, and up to 8,132 square feet of retail use.
Diridon TOD	402 West Santa Clara Street	Construction of up to 1.04 million square feet of office/commercial space, and up to 325 multi-family residences.
Museum Place[13]	180 Park Avenue	Construction of a 24-story mixed-use building with approximately 214,000 square feet of office, 13,402 square feet of ground floor retail, 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units.
200 Park Avenue Office	200 Park Avenue	Construction of an approximately 1,055,000 square foot office building with 840,000

[13] There is an entitlement for construction of Museum Place that could move forward at any time. Modifications to the original project are currently under review.

Table 3.0-1: Summary Project List Within Half-Mile Radius		
Project Name	**Location**	**Description**
		square feet of office space, and 229,200 square feet of above-grade parking.
The Graduate	80 East San Carlos Street	Construction of a 19-story building with up to 260 residential units and approximately 14,800 square feet of ground floor retail/commercial space.
Gateway Tower	455 South First Street	Construction of a 25-story building with up to 308 residential units and approximately 8,000 square feet of ground floor retail.
363 Delmas Avenue	341 Delmas Avenue	Construction of a five-story building with up to 120 residential units.
Tribute Hotel	211 South First Street	Construction of a 24-story, 279 room hotel integrated into a historic building.
425 Auzerais Avenue	425 Auzerais Avenue	Construct a six-story residential building and up to 130 attached residential units.
Pending		
CityView Plaza	Northeast corner of Almaden Boulevard and Park Avenue	Construction of three 19-story buildings with up to approximately 3.8 million square feet of office and commercial space.
South Market Mixed-Use	477 South Market Street	Construction of a six-story mixed-use building with 130 residential units and approximately 5,000 square feet street of commercial space.
South Fourth Street Mixed-Use	439 South Fourth Street	Construction of an 18-story mixed use building consisting of 218 residential units, approximately 1,345 square feet of commercial use and approximately 12,381 square feet of public eating establishment.
Balbach Affordable Housing	Southeast corner of Balbach Street/South Almaden Boulevard intersection	Construction of an eight-story building with 87 residential units.
543 Lorraine Avenue Mixed-Use	543 Lorraine Avenue Mixed-Use	Construction of a mixed-use building including up to 70 residential units and approximately 2,200 square feet of commercial space.
Block 8	282 South Market Street	Construction of a 20-story office building with approximately 568,286 square feet of office and 16,372 square feet of ground floor commercial space

For each environmental issue, cumulative impacts may occur within different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area.

3.1 AIR QUALITY

The following discussion is based upon an Air Quality and Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in June 2020. The report is included in Appendix B of this document.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

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

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants), including particulate matter (PM), ground-level ozone (O_3), carbon monoxide (CO), sulfur oxides, nitrogen oxides (NO_x), and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs are found in ambient air, especially in urban areas, and are released by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest

regions of the lungs (most susceptible to injury).[14]

Fine Particulate Matter ($PM_{2.5}$) is a TAC composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), $PM_{2.5}$ can lodge deeply into the lungs. According to BAAQMD, $PM_{2.5}$ is the air pollutant most harmful to the health of Bay Area residents. Sources of $PM_{2.5}$ include gasoline stations, dry cleaners, diesel vehicles, and diesel backup generators.

Local risks associated with TACs and $PM_{2.5}$ are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

2017 Clean Air Plan

BAAQMD is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[15]

CEQA Air Quality Guidelines

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

City of San José

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel

[14] CARB. "Overview: Diesel Exhaust and Health." Accessed February 13, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.
[15] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed February 13, 2020. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

through parking supply and pricing management; and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.1.1.2 *Existing Conditions*

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

BAAQMD is responsible for assuring that the national and State ambient air quality standards are attained and maintained in the San Francisco Bay Area Air Basin. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: CO, O_3, nitrogen dioxide (NO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). These pollutants are considered criteria pollutants by the EPA and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. Table 3.1-1 shows violations of state and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during

the 2016-2018 period (the most recent years for which data is available).

Table 3.1-1: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2016	2017	2018
SAN JOSE STATION				
Ozone	State 1-hour	0	3	0
	Federal 8-hour	0	4	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	0	**6**	**4**
$PM_{2.5}$	Federal 24-hour	0	**6**	**15**

Source: Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries". Accessed February 13, 2020. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

"Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area does not meet federal and state ambient air quality standards for $PM_{2.5}$ and O_3. The area is also considered in non-attainment for PM_{10} under state standards. The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as TACs under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs tend to be localized and are found in relatively low concentrations; however, exposure to low concentrations over long periods can result in adverse chronic health effects.

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

Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to exposure to pollutants (i.e., children, the elderly, and people with illnesses). Locations that may contain high concentrations of sensitive population groups include residential areas, hospitals, daycare and elder care facilities, elementary schools, parks and places of assembly. The nearest sensitive receptors are the single-family residences located approximately 150 feet south of the project site.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, the analysis considers if the project would:

a) Conflict with or obstruct implementation of the applicable air quality plan
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard
c) Expose sensitive receptors to substantial pollutant concentrations, and/or
d) Result in substantial emissions (such as odors) adversely affecting a substantial number of people

3.1.3 Air Quality Impacts – Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.1-2.

Table 3.1-2: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	0.3 $\mu g/m^3$	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)	

Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = coarse particulate matter with a diameter of 10 micrometers (μm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 μm or less.

Similar to the site development evaluated in the Downtown Strategy 2040, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated odors. The proposed project, by itself,

would result in a significant unavoidable impact associated with construction TACs. The Downtown Strategy 2040 did, however, identify a significant unavoidable cumulative regional air quality impact.

3.1.3.1 *Project Impacts*

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

Bay Area 2017 Clean Air Plan

The BAAQMD CEQA *Air Quality Guidelines* set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 3.1-3 below, the proposed project would generally be consistent with the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.

Table 3.1-3: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The proposed development would be located in proximity to Caltrain, the Altamont Commuter Express (ACE) train, Amtrak, and the Santa Clara Valley Transportation Authority (VTA) light rail. In addition, the project would include bicycle parking consistent with City standards. The proposed project would be required to implement a TDM Program, consistent with the Downtown Strategy 2040. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include bicycle parking consistent with City standards. In addition, the project area is well equipped with pedestrian facilities including sidewalks and crosswalks. Additionally, the project proposes a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project

Table 3.1-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
		frontages on Almaden Boulevard and Woz Way. The project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project would be located in proximity to multiple transit services; therefore, the project is consistent with this measure (refer to *Section 4.17 Transportation* of the Initial Study for more information).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24) and the City's Green Building Ordinance and the most recent CALGreen requirements. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over standard construction. In addition, parking would be located within the proposed building and would not contribute to the heat island effect. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-	The City adopted the Zero Waste Strategic Plan which

Table 3.1-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

The project is consistent with applicable transportation, building, natural and working lands, and waste management control measures identified in the table above and is consistent with applicable policies in the City's General Plan. The project would not result in a significant impact related to consistency with the 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Period Emissions – Criteria Pollutants

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from on-site construction activities. The proposed land uses of the project were input into CalEEMod, which included 1,688,640 square feet entered as "Office Park", 39,137 square feet entered as "Strip Mall", and 1,343 parking spaces entered as "Enclosed Parking with Elevator". Demolition of the parking lot and soil export were input into CalEEMod as well. The CARB Emissions Factors 2017 (EMFAC2017) model was used to predict construction truck traffic and trip emissions. Refer to Appendix B for more information regarding assumptions and CalEEMod inputs. The construction schedule assumes that the project would be built over a period of approximately 51 months, or an estimated 1,297 construction workdays.[16] Table 3.1-4 shows the estimated daily air emissions from construction of the proposed project.

[16]Based on a six days per week construction schedule.

Table 3.1-4: Daily Construction Period Emissions				
Scenario	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Total Construction emissions (tons)	11.3	23.2	1.3	0.9
Average daily emissions (pounds per day)[1]	17.5	35.7	2.0	1.3
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	**No**	**No**	**No**	**No**
Note: [1]Assumes 1,297 construction workdays.				

The construction period emissions would not exceed BAAQMD's significance threshold for ROG, NO_x, PM_{10}, and $PM_{2.5}$ and, as a result, would not conflict with the 2017 CAP.

Operational Emissions – Criteria Pollutants

Operational criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future employees, customers, and vendors. CalEEMod was used to estimate the emissions from operation of the project assuming full build out. The earliest the project would be constructed and operational would be 2026. Trip generation rates provided by *Hexagon Transportation Consultants, Inc.*, generator emissions, and CalEEMod defaults for energy use and emissions associated with solid waste generations and water/wastewater use were used.

The assumptions and results are described in detail in the *Air Quality and Greenhouse Gas Emission Assessment* prepared for this project (refer to Appendix B of this document). The estimated daily operational emissions from the proposed project are summarized in Table 3.1-5 below.

Table 3.1-5: Operational Period Emissions				
Scenario	**ROG**	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2026 Project Operational Emissions (tons/year)	9.6	6.0	7.2	2.0
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceed Threshold?	**No**	**No**	**No**	**No**
2026 Project Operational Emissions (pounds/day)[1]	52.7	33.1	39.2	11.1
BAAQMD Thresholds (pounds/day)	54	54	82	54
Exceed Threshold?	**No**	**No**	**No**	**No**
Notes: [1]Assumes 365-day operation.				

Operational criteria pollutant emissions associated with the proposed project would not exceed BAAQMD significance thresholds for ROG, NO_x, PM_{10}, and $PM_{2.5}$. The project is part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from full build out of the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. Consistent with the Downtown Strategy 2040 FEIR, the proposed project would implement a TDM plan (refer to the list of proposed TDM measures in the project description) to reduce emissions associated with vehicle travel. The project would not result in impacts of greater severity than were already disclosed in the Downtown Strategy 2040.

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

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard?

The Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of ozone standards. As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As mentioned above, the proposed project, would be required to implement a TDM program to reduce emissions associated with vehicle travel. As a result, the proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Dust Generation

Construction activities on-site would temporarily generate dust and equipment exhaust that would affect nearby sensitive receptors. Consistent with the Downtown Strategy 2040 FEIR, the project shall implement the following City's Standard Permit Conditions, during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control

measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints

With implementation of the required Standard Permit Conditions, fugitive dust and other particulate matter during construction would have a less than significant air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Community Risk Impacts from Project Construction – On-Site Work and Hauling Activity

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Construction exhaust emissions could pose a health risk to nearby sensitive receptors due to increased cancer risk and exposure to $PM_{2.5}$. The nearest sensitive receptors are located approximately 150 feet south of the project site. A health risk assessment of the project construction activities including on-site construction and hauling activities was completed for the proposed project. The assessment evaluated the potential health effects to nearby sensitive receptors (within 1,000 feet of the project site) from construction emissions of DPM and $PM_{2.5}$.[17] The project proposes extended construction hours which would include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period.

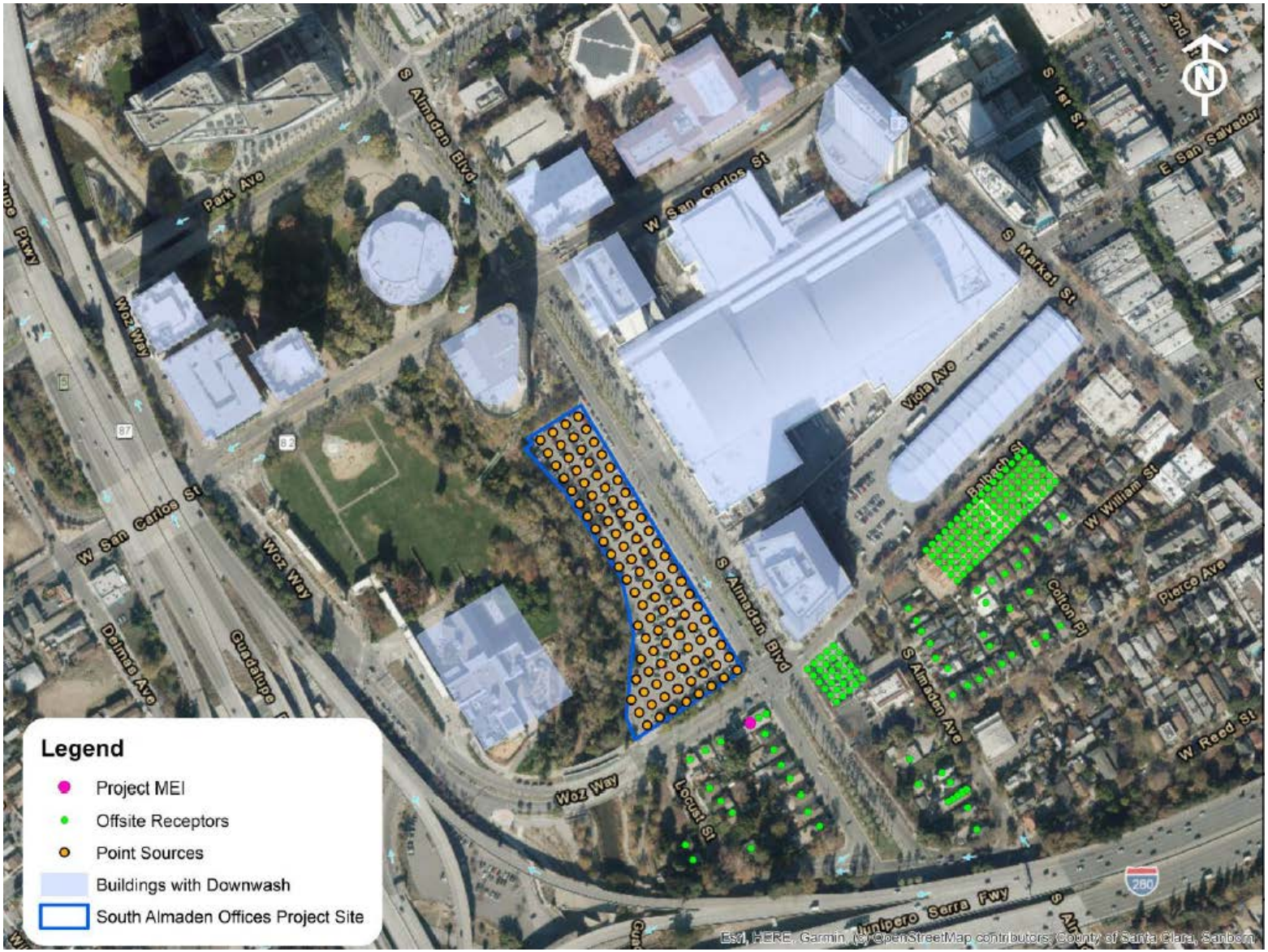
The CalEEMod model was used to determine total annual DPM and $PM_{2.5}$ for off-road construction equipment and on-road worker vehicles. The U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing receptors in the vicinity of the project construction area and construction haul routes. The U.S. EPA AERMOD dispersion model assumptions and results are included in Appendix B of this document.

The maximum modeled annual DPM and $PM_{2.5}$ concentrations was identified at a single-family residence located approximately 150 feet south of the project site. Table 3.1-6 provides a summary of the construction health risk impacts at the off-site maximum exposed individual (MEI) from project construction. Figure 3.1-1 below shows the locations of off-site sensitive receptors and project MEI.

Table 3.1-6: Construction Risk Impacts at Off-Site Residential MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction Unmitigated	**69.7 (infant)**	**2.27**	0.05
BAAQMD Single-Source threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold? Unmitigated	**Yes**	**Yes**	No

[17] DPM is identified by California as a TAC due to the potential to cause cancer.



LOCATIONS OF OFF-SITE RECEPTORS AND PROJECT MEI | FIGURE 3.1-1

As shown in the table above, the cancer risks (for infants) and annual $PM_{2.5}$ concentration from project construction would exceed BAAQMD's significance thresholds of 10 cases per one million and 0.3 $\mu g/m^3$, respectively. The HI from construction activities would not exceed BAAQMD's significance threshold of greater than 1.0.

Impact AIR-1: Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds.

Mitigation Measure

In addition to the required Downtown Strategy 2040 FEIR measures listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce TAC emissions impacts.

MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards.
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.
- Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the

measures outlined in this mitigation measure. The plan shall include but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure.

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

With implementation of the required Standard Permit Conditions for dust and Mitigation Measure AIR-1.1, the construction cancer risk would be reduced to 8.0 cases per one million for infants, the maximum annual $PM_{2.5}$ concentration would be reduced to 0.43 μ/m^3, and the HI would be 0.01. The maximum annual $PM_{2.5}$ concentration would still exceed BAAQMD's significance threshold with the identified mitigation and would result in a significant unavoidable impact. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**

Community Risk Impacts from Project Operation – Traffic and Generators

Operation of the project would result in long-term emissions associated with traffic and generators. TAC and $PM_{2.5}$ impacts from local roadways (e.g., State Route 87 (SR 87), Interstate 280 (I-280), Woz Way, and South Almaden Boulevard were analyzed using the EMFAC2014 model and the Local Transportation Analysis prepared by *Hexagon Transportation Consultants, Inc*. The increased cancer risk from project traffic would be 1.7 cases per one million, the maximum annual $PM_{2.5}$ concentration would be 0.10 $\mu g/m^3$, and the HI value would be less than 0.03.

The project proposes a total of three emergency generators which would be located on the ground floor as shown in Figure 3.1-2 below. One generator would have a power wattage of 1,500 kW and the other two generators would have a power wattage of 750 kW. The size of the diesel generators are unknown, but the engines would be approximately 2,011 horsepower (HP) for the 1,500-kW emergency generator and approximately 1,005 HP for the 750 kW emergency generators. The generators would be operated during periods of emergency and for maintenance and testing purposes with a maximum of 50 hours per year. During the maintenance and testing periods, the generator would run for less than one hour at a time. The increased cancer risk, maximum annual $PM_{2.5}$

LOCATIONS OF ON-SITE EMERGENCY GENERATORS | FIGURE 3.1-2

concentration, and HI from the proposed generators would be 2.0 cases per one million, less than 0.01 µg/m^3, and less than 0.01, respectively. The MEI cancer risk from all roadways were adjusted for exposure duration since the MEI would only be exposed increased traffic once the project is operational. Construction cancer risks would occur during the first five years and operational cancer risks would occur during years six to 30 (25 years). Refer to Appendix B for more information and Table 3.1-7 for a summary of the construction and operation risk impacts at the off-site MEI.

Table 3.1-7: Construction and Operation Risk Impacts at the Off-Site Project MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ (µg/m^3)	Hazard Index
Unmitigated Project Construction (Years 0-5)	**69.7 (infant)**	**2.27**	0.05
Mitigated Project Construction (Years 0-5)	8.0 (infant)	**0.43**	0.01
Project Traffic (Years 6-30)	1.7	0.10	<0.03
Unmitigated Project Generators (Years 6-30)	2.0	<0.01	<0.01
Mitigated Project Generators (Years 6-30)	0.3	<0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)	**73.4**	**2.27**	0.05
Mitigated Total/Maximum Project (Years 0-30)	9.97	**0.43**	0.03
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?			
Unmitigated	***Yes***	***Yes***	*No*
Mitigated	*No*	***Yes***	*No*

As shown in the table above, the maximum cancer risks and annual $PM_{2.5}$ concentrations from construction and operation of the project (without mitigation) would exceed BAAQMD's significance thresholds of 10 cases per one million and 0.3 µg/m^3. The HI from construction and operation of the project would not exceed BAAQMD's significance threshold of greater than 1.0.

Impact AIR-2: Construction and operational activities associated with the proposed project would expose the off-site maximum exposed individual to cancer risk in excess of BAAQMD thresholds.

Mitigation Measure

MM AIR-2.1: Prior to installation of any emergency generator, the project applicant shall submit documentation that demonstrates the equipment used on-site includes diesel particulate matter (DPM) filters that achieve a minimum 85 percent reduction in particulate matter emissions or submit documentation that has been reviewed and approved by the City demonstrating that the project generators will not increase lifetime cancer risk by 10 cases per one million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures:

- Placement of the equipment;
- Placement and orientation of the exhaust stacks;

- Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or
- Limitation to the operation hours to less than 50 hours per year.

With implementation of Mitigation Measure AIR-2.1, cancer from project generators would be reduced to 0.3 cases per one million. In combination with Mitigation Measure AIR-1.1 and the required Downtown Strategy 2040 measures, the cancer risk from project construction and operation would be reduced to 9.97 cases per one million. The HI from construction and operation activities would not exceed BAAQMD's significance threshold of greater than 1.0. Even with implementation of Mitigation Measure AIR-1.1 and the required Downtown Strategy 2040 measures, the project would still have a significant unavoidable $PM_{2.5}$ concentration impact to the off-site MEI. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the State Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

As discussed previously, the proposed project, by itself, would result in a less than significant operational and construction criteria pollutant impact as discussed previously. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations. **(New Less Than Significant Impact)**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. Additionally, the project proposes amenity/food beverage space which would be located on the ground floor of both towers. The odor emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. The project applicant would be required to comply with applicable General Plan policies including General Plan Policy MS-12.2 which requires adequate buffers between sources of odors and sensitive receptors. Implementation of the proposed project would not result in odors that would adversely affect a substantial number of people.

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

3.1.3.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant air quality impact?

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts.

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure sensitive receptors introduced onto the project site are not exposed to substantial TAC emissions. Community health risk assessments typically look at all sources of TACs (including highways, streets, and stationary sources identified by BAAQMD) within 1,000 feet of a project site as discussed below.

Cumulative TAC Sources in the Project Area

Mobile Sources of TACs

Traffic on high volume roadways (10,000 average daily trips [ADT] or more) is a source of TAC emissions that may adversely impact sensitive receptors in close proximity to the roadways. A review of the project area identified SR 87, I-280, Woz Way, South Almaden Boulevard, and San Carlos Street as mobile sources of TACs. All other roadways in the area would have an ADT of 10,000 vehicles or less. The *Roadway Screening Analysis Calculator* was used to assess whether roadways with traffic volumes over 10,000 vehicles per day would have a potentially significant effect on the proposed project.

SR 87 and I-280 are located approximately 1,000 feet west and 500 feet south of the project site. Woz Way, South Almaden Boulevard, and San Carlos Street have an ADT of 10,730, 18,610, and 12,705, respectively.

Stationary Sources of TACs

Stationary sources (i.e., plants) are facilities that contain sources of TACs such as a generator or gas station. Stationary sources near the project site were identified using *BAAQMD's Stationary Source Risk & Hazard Analysis Tool*. This tool uses Google Earth which identified 10 stationary sources (e.g., generators) with the potential to affect the MEI.

Construction Risk Impacts from Nearby Approved Development

Within the 1,000 feet of the project site, there are three proposed and approved developments (e.g., 200 Park Avenue Office (File Number H18-045), Museum Place (File Number H16-024), and Balbach Housing (File Number H18-057). It was assumed that the construction of 200 Park Avenue

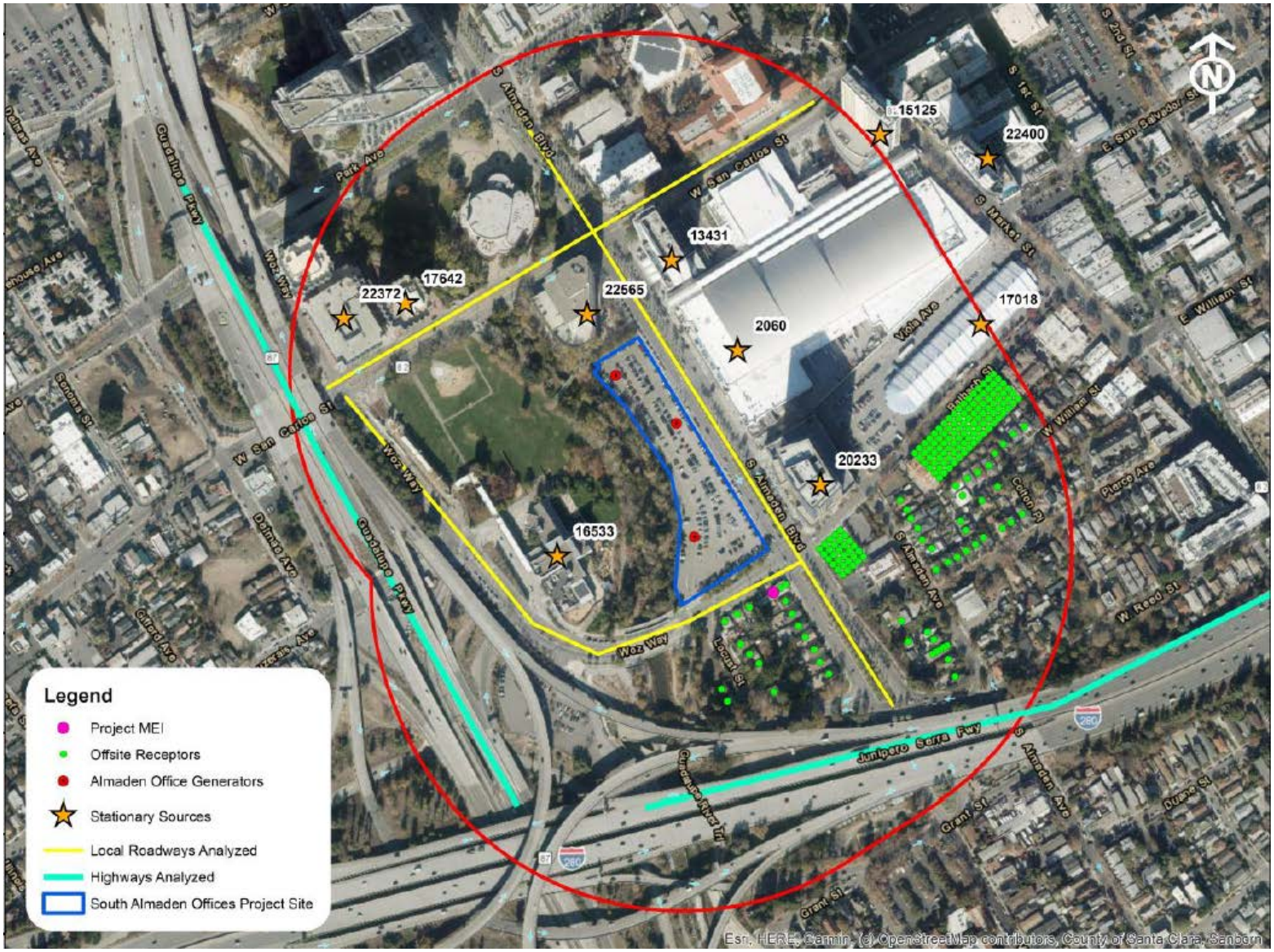
and Museum Place would be complete before project construction begins. Therefore, those two developments would not contribute to the cumulative community risk at the project MEI . The construction risk from the Balbach Housing development was assumed to occur simultaneously. Table 3.1-8 below summarizes the cumulative health risks at the MEI. Figure 3.1-3 shows the project site and the locations of nearby TAC and $PM_{2.5}$ sources.

Table 3.1-8: Community Risk Impacts from TAC Sources

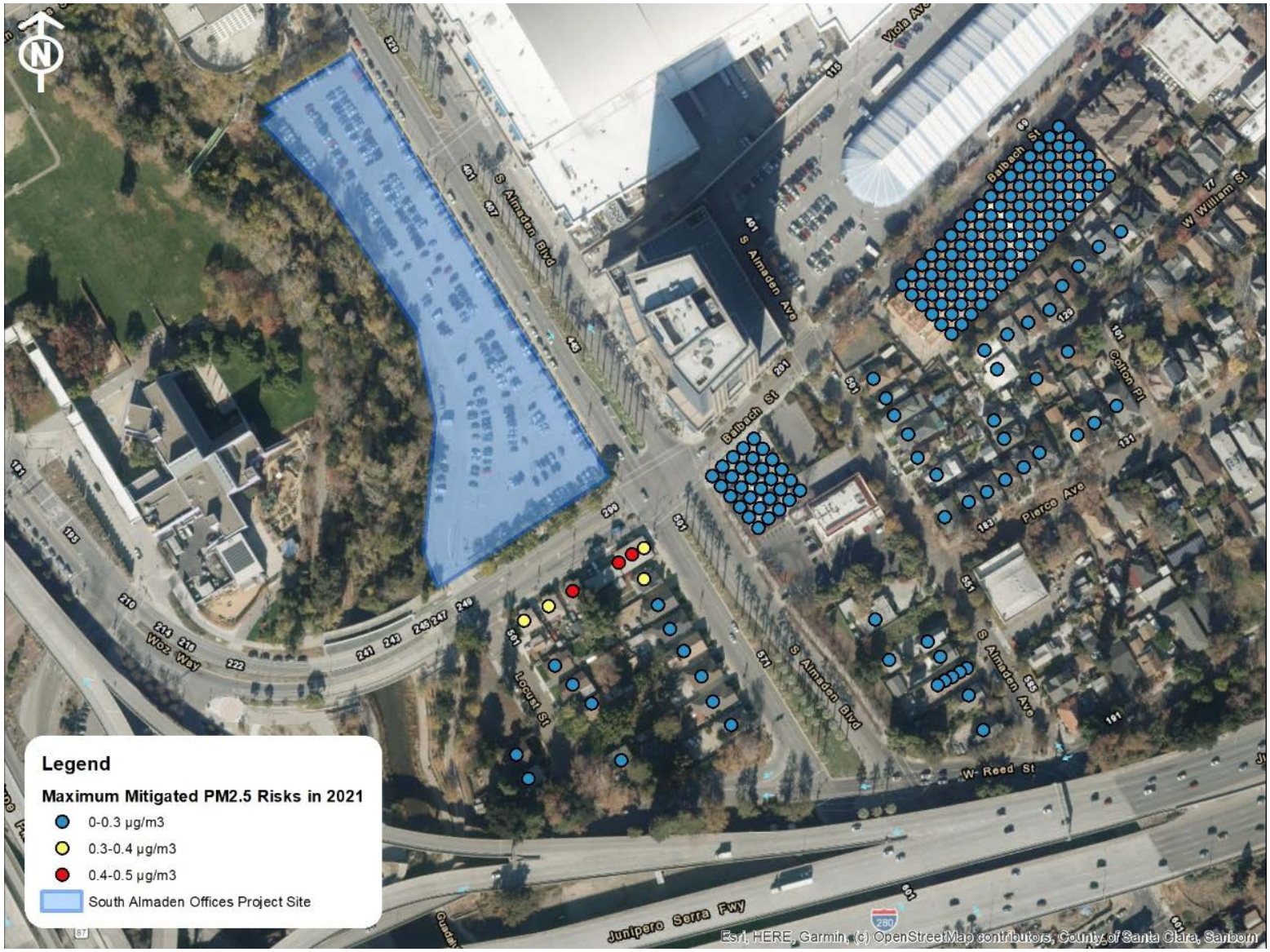
Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction and Operation - Unmitigated	**73.38**	**2.27**	0.05
Mitigated	9.97	**0.43**	0.03
SR-87 at 1,000 feet east	2.33	0.01	0.01
I-280 at 500 feet north	28.56	0.18	0.02
South Almaden Boulevard (MEI at 80 feet west)	4.25	0.13	<0.03
Woz Way (MEI at 25 feet south)	4.65	0.17	<0.03
San Carlos Street (MEI at 1,000 feet south)	0.53	0.02	<0.03
Plant #22372 (generator) at 300m	0.15	<0.01	<0.01
Plant #17642 (generator) at 300m	0.22	<0.01	<0.01
Plant #13431 (generator) at 300m	0.33	<0.01	<0.01
Plant #15125 (multiple sources) at 300m	0.05	0.01	0.01
Plant #22400 (generator) at 300m	<0.01	<0.01	<0.01
Plant #22565 (generator and fire pump) at 300m	0.15	<0.01	<0.01
Plant #2060 (multiple sources) at 160m	3.30	0.19	0.01
Plant #17018 (generator) at 200m	0.01	<0.01	<0.01
Plant #20233 (generator) at 60m	6.73	0.01	<0.01
Plant #16533 (generator) at 175m	0.03	<0.01	<0.01
Nearby Construction Development (Balbach Housing) - Mitigated Emissions	<10.0	<0.3	<1.0
Cumulative Total -			
Unmitigated	**134.68**	**3.36**	1.27
Mitigated	71.27	**1.52**	1.25
BAAQMD Threshold – Cumulative Sources	***>100***	***>0.8***	***>10.0***
Threshold Exceeded?			
Unmitigated	***Yes***	***Yes***	*No*
Mitigated	*No*	***Yes***	*No*

Note: [1]BAAQMD reported zero daily average emissions for this stationary source.

As shown in the table above, with implementation of Mitigation Measure AIR-1.1 and the required Downtown Strategy 2040 measures, the $PM_{2.5}$ concentration would exceed BAAQMD's cumulative threshold. Figure 3.1-4 below shows the locations of sensitive receptors and the extent of mitigated annual $PM_{2.5}$ concentrations within the 1,000-foot radius. The annual $PM_{2.5}$ concentration would only exceed the single-source BAAQMD threshold during the first year of construction (2021). In subsequent years, construction would not exceed BAAQMD's significance threshold of 0.3 $\mu g/m^3$ for $PM_{2.5}$. As shown in the figure, the area located immediately south of the site would have $PM_{2.5}$ concentrations exceeding 0.3 $\mu g/m^3$. With implementation of Mitigation Measure AIR-1.1 and the required Downtown Strategy 2040 measures, the significant $PM_{2.5}$ impacts would continue to significantly affect six single-family residences. As mentioned above, this exceedance would only occur during the first year of construction when demolition, site preparation, grading, and foundation work would occur.



LOCATIONS OF NEARBY TAC AND PM2.5 SOURCES | FIGURE 3.1-3



MITIGATED CONSTRUCTION PM2.5 RECEPTOR RISK | FIGURE 3.1-4

With implementation of Mitigation Measures AIR-1.1 and the required Downtown Strategy 2040 measures, the computed maximum increased lifetime residential cancer risk from construction and operation would be 9.97 cases per one million, the maximum annual $PM_{2.5}$ concentration would be 0.43 $\mu g/m^3$, and the HI value would be 0.03. With mitigation and the identified measures incorporated, the cancer risk and HI would not exceed the BAAQMD cumulative significance thresholds. The cumulative $PM_{2.5}$ concentration would, however, continue to exceed BAAQMD significant threshold of 0.8 $\mu g/m^3$.

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

3.2 BIOLOGICAL RESOURCES

The following discussion is based, in part, on an Arborist Report prepared by *HMH Engineers* in February 2019. In addition, the following discussion is based upon a Biological Resources Report prepared by *H.T. Harvey & Associates* in April 2020. The reports are included as Appendix C and D in this document.

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW listed Species of Special Concern.

Migratory Bird and Birds of Prey Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[18] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[18] U.S. Department of the Interior. M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take. Accessed January 21, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

CDFW Stream/Riparian Habitat

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the Department of Transportation.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

City of San José Riparian Corridor Policy Study

The City of San José's Riparian Corridor defines a riparian corridor as any stream channel, including the area up to the bank full-flow line, as well as all riparian (streamside vegetation) in contiguous

adjacent uplands. The policy states that riparian setbacks should be measured 100 feet from the outside edges of riparian habitat or the top of bank, whichever is greater.

Riparian Corridor Protection and Bird-Safe Design Policy 6-34

The City of San José's Riparian Corridor Protection and Bird-Safe Design Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff, and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-Safe design guidance for buildings and structures includes avoiding large areas of reflective glass, transparent building corners, up-lighting and spotlights.

Envision San José 2040 General Plan

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

General Plan Policies: Biological Resources	
Policy ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).
Policy ER-2.2	Ensure that the 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
Policy ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise, and toxic substances into the riparian zone.
Policy ER-2.4	When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore and/or mitigate damage and allow for fish passage during construction.
Policy ER-2.5	Restore riparian habitat through native plant restoration and removal of non-native/invasive plants along riparian corridors and adjacent areas.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy ER-6.3	Employ low-glaring lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Policy ER-6.7	Include barriers to animal movement within new development and, when possible, within existing development, to prevent movement of animals (e.g., pets and wildlife) between developed areas and natural habitat areas where such barriers will help to protect sensitive species.
Policy ER-6.8	Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
Policy MS-21.9	Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree species native to the area and propagated from local sources (generally from within 5-10 miles and preferably from within the same watershed).

Policy IN-1.11	Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse affect 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.

3.2.1.2 *Existing Conditions*

Overview of Habitat Found On-Site

The project site is currently developed with a public parking lot. There is no native vegetation currently present on-site. Based on the SCVHP, the project site is designated as "Urban-Suburban" land.[19] "Urban-Suburban" land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres. There are no sensitive habitats or wetlands on-site.

Special-Status Species

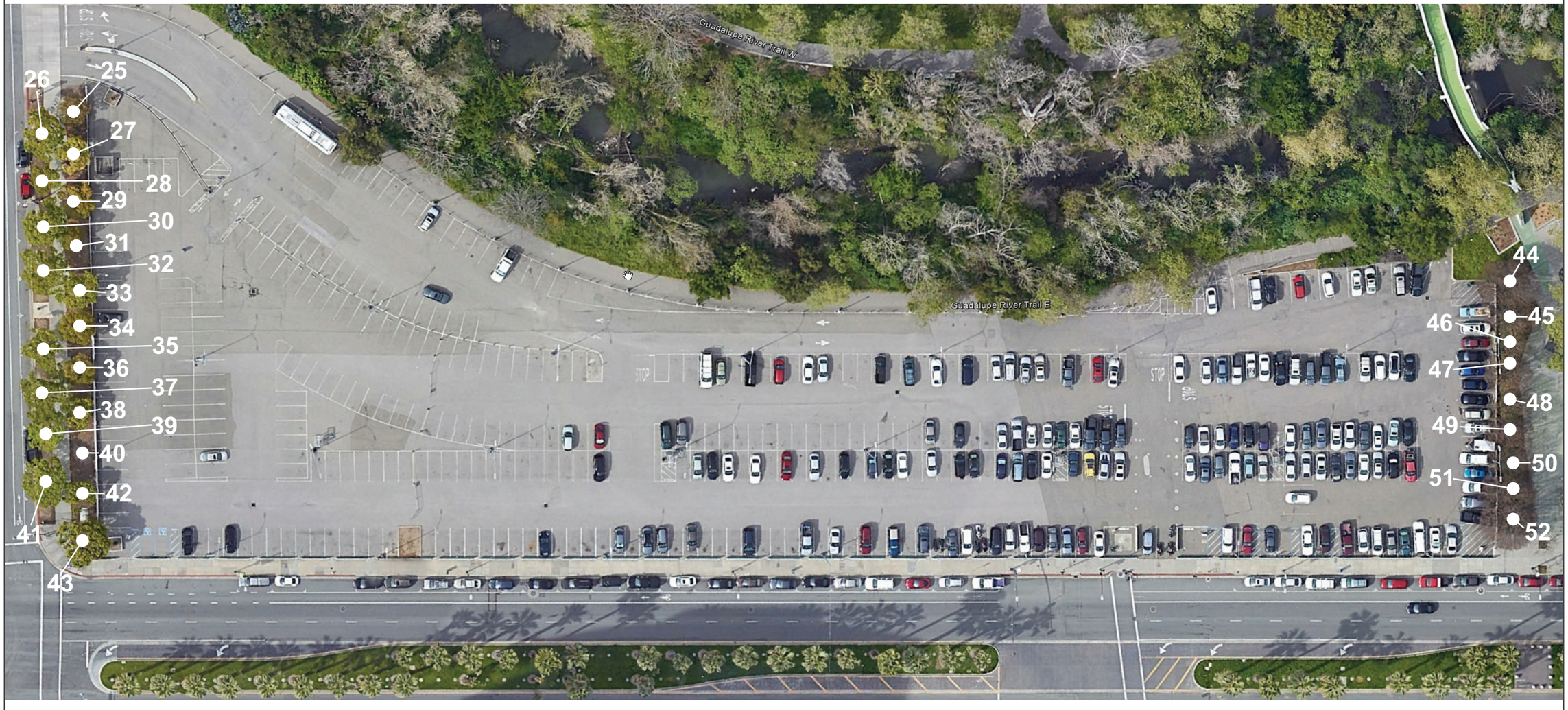
Most special-status species occurring in the Bay Area use habitats that are not currently present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats. Native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still the potential for nesting birds to be located within the street trees and off-site trees adjacent to the project site.

Trees

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

A total of 28 trees (off-site and street trees) were surveyed, none of which are considered native to the City. There are no trees within the boundary of the project site. The location of trees is shown on Figure 3.2-1. Please note that *HMH Engineers* reused a series of tags which started at No. 25; therefore, the first tree that was surveyed is listed as Tree No. 25 in the Arborist Report.[20] For the purposes of this analysis, Tree Nos. 25 to 52 in the report are referred to as Tree Nos. one to 28 in the SEIR.

[19] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps". Accessed March 19, 2019. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.
[20] Sowa, Bill. HMH Engineers. February 21, 2020.



TREE LOCATION MAP | FIGURE 3.2-1

Table 3.2-1: Tree Survey					
Tree No.	**Scientific Name**	**Common Name**	**Health[1]**	**Circumference in Inches**	**Diameter in Inches**
1	*Cinnamomum camphora*	Camphor tree	3	31	10
2	***Cinnamomum camphora***	**Camphor tree**	**3**	**50**	**16**
3	*Cinnamomum camphora*	Camphor tree	2	35	11
4	***Cinnamomum camphora***	**Camphor tree**	**4**	**52**	**16.5**
5	*Cinnamomum camphora*	Camphor tree	3	27	8.5
6	***Cinnamomum camphora***	**Camphor tree**	**3**	**49**	**15.5**
7	*Cinnamomum camphora*	Camphor tree	2	36	11.5
8	*Cinnamomum camphora*	Camphor tree	3	28	9.0
9	***Cinnamomum camphora***	**Camphor tree**	**3**	**41**	**13.0**
10	***Cinnamomum camphora***	**Camphor tree**	**3**	**38**	**12.0**
11	***Cinnamomum camphora***	**Camphor tree**	**4**	**50**	**16.0**
12	*Cinnamomum camphora*	Camphor tree	3	28	9.0
13	*Cinnamomum camphora*	Camphor tree	4	31	10.0
14	*Cinnamomum camphora*	Camphor tree	3	17	5.5
15	***Cinnamomum camphora***	**Camphor tree**	**3**	**42**	**13.5**
16	*Cinnamomum camphora*	Camphor tree	1	31	10.0
17	***Cinnamomum camphora***	**Camphor tree**	**4**	**60**	**19.0**
18	***Cinnamomum camphora***	**Camphor tree**	**3**	**53**	**17.0**
19	***Cinnamomum camphora***	**Camphor tree**	**4**	**104**	**33.0**
20	***Carpinus betulus***	**European hombeam**	**4**	**181**	**57.5**
21	***Carpinus betulus***	**European hombeam**	**4**	**151**	**48.0**
22	***Carpinus betulus***	**European hombeam**	**4**	**75**	**24.0**
23	***Carpinus betulus***	**European hombeam**	**4**	**138**	**44.0**
24	***Carpinus betulus***	**European hombeam**	**4**	**198**	**63.0**
26	***Carpinus betulus***	**European hombeam**	**4**	**132**	**42.0**
27	***Carpinus betulus***	**European hombeam**	**4**	**113**	**36.0**
28	***Carpinus betulus***	**European hombeam**	**4**	**138**	**44.0**
29	***Carpinus betulus***	**European hombeam**	**4**	**220**	**70.0**

Notes: Ordinance sized trees are 38+ inches in circumference (12.1+ inches in diameter) and **bolded** above.

[1]**Health Rating:**

5 – A healthy, vigorous tree, reasonably free of disease, with good structure and form typical of the species.

4 – A tree with slight decline in vigor, small amount of twig dieback, minor structural defects that could be corrected.

3 – A tree with moderate vigor, moderate twig and small branch dieback, thinning of crown, poor leaf color, moderate structural defects that may be mitigated with care.

2 – A tree in decline, epicormic growth, extensive dieback of medium to large branches, significant structural defects that cannot be abated

1 – A tree in severe decline, dieback of scaffold branches and or trunk, mostly epicormic growth; extensive structural defects that cannot be abated.

0 – Tree is dead.

3.2.1.3 *Off-Site Conditions*

The project site is located immediately east of the Guadalupe River Trail and the Guadalupe River riparian corridor. The project site is located approximately 20 feet east from the top of bank of Guadalupe River.

The Guadalupe River corridor, as a whole, consists of native and non-native trees. Vegetation along the entire Guadalupe River include riparian and riverine aquatic vegetation. According to the Downtown Strategy 2040 FEIR, the downtown area is highly urbanized with very little undisturbed habitat and does not support any special-status plant species. It is possible that the western pond turtle, a California species of special concern, may occur in the vicinity of downtown, although the downtown area has poor quality aquatic and upland nesting habitat near Los Gatos Creek and Guadalupe River.[21] The Central California Coast steelhead and Central Valley Fall-run Chinook salmon are known to spawn in Guadalupe River. The Guadalupe River provides less than optimal conditions for these fish due to water temperatures, velocity and depth of flow, sandy gravel substrate, pollution, and barriers to migration. Other special-status fish that may occur in the Guadalupe River watershed include Pacific Lamprey, green sturgeon, and longfin smelt.

Per the Biological Resources Report, the Guadalupe River corridor is characterized by dense mature riparian trees including many native coast live oaks, red willows, and Fremont cottonwoods, with lesser numbers of native valley oaks, box elders, California bays, western sycamores, and California buckeyes, as well as numerous non-native black walnuts and tree of heaven and lesser numbers of non-native London plane trees, Peruvian peppers, and other non-native trees and shrubs. Plant species observed along the reach of the Guadalupe River adjacent to the project site include the Himalayan blackberry, Pacific bent grass, sweet fennel, prickly lettuce, cheeseweed, Jersey cudweed, mock orange, trumpet creeper, cotoneaster, Mexican fan palm, coyote brush, American century plant, and New Zealand nightshade.[22] Plant species located along the water include water primrose, curly dock, Harding grass, and mulefat. In addition, non-native English ivy is abundant on the riparian floor and on the trees.

Within the City, raptors such as red-shouldered hawks and Cooper's hawks are known to nest within riparian corridors and forage in adjacent habitats.

3.2.2 **Impact Discussion**

For the purpose of determining the significance of the project's impact on biological resources, would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?

[21] City of San José. San José Downtown Strategy 2040 Integrated Final EIR. December 2018.
[22] H.T. Harvey & Associates. South Almaden Offices Project – Biological Resources Report. April 10, 2020.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The proposed project would result in a significant unavoidable cumulative impact to the Guadalupe River riparian corridor beyond what was evaluated in the Downtown Strategy 2040, as described below.

3.2.2.1 *Project Impacts*

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

Based on the developed nature of the project site, natural communities or habitats for special-status plant and wildlife species are not present and would not be impacted, with the exception of nesting birds (described further below).

Impacts to Nesting Migratory Birds

The project site is located within an urbanized and developed area of downtown San José. As mentioned previously, a total of 28 trees (off-site and street trees) were surveyed which could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and the CDFW Code Sections 3505, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. The following measures, currently existing City's Standard Permit Conditions, shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests, consistent with the Downtown Strategy 2040 FEIR.

Standard Permit Conditions:

- Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.
- If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14

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

- The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning or Director's designee, prior to the issuance of any grading or building permit.

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

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?

Vegetation in the surrounding area to the west consists primarily of non-native landscaped trees and shrubs which provide low-quality resources to birds. Additionally, human-related disturbances has negatively affected the quality of this habitat for birds. This riparian habitat is highly fragmented due to the existing surrounding urban development and the presence of bridges, road crossings, and channelization along nearby portions of the river. For these reasons, this habitat would provide moderate quality riparian habitat as opposed to other high-quality habitat in the region.

The proposed project would be required to comply with the setbacks or exceptions, as defined in the City's Riparian Corridor Protection and Bird-Safe Design Policy (City Council Policy 6-34), which states that riparian setbacks should be measured 100 feet from the outside edges of riparian habitat or the top of bank, whichever is greater. Additionally, the SCVHP-defined standard setback for the Guadalupe River (a Category 1 stream) is 100 feet. A Category 1 stream is defined as having "sufficient flow to support covered species and riparian habitat." Based on the Biological Resources Report prepared for the site, a 100-foot standard setback would be appropriate between the new proposed buildings and the Guadalupe River to maintain suitable riparian functions and values. For the purposes of this project, the standard 100-foot setback extends landward from the outer edge of the riparian habitat along the Guadalupe River. At no point does the top of bank extend landward farther than the riparian canopy; therefore, the setback is defined by measuring 100 feet from the edge of the riparian canopy along the entire length of the site.

Exceptions to the City Council Policy 6-34 could be granted with the following conditions:

a. Developments located within the boundaries of the downtown area, as those boundaries are defined in the General Plan.
b. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one acre.
c. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.
d. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.
e. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer riparian corridors from these and the building setbacks are consistent with all riparian corridor setback requirements.
f. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.
g. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.
h. Recreational facilities deemed to be a critical need and for which alternative site locations are limited.
i. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation, and generate only incidental human activity.
j. The existence of legal uses within the minimum setback.
k. The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).
l. The extent to which meeting the minimum setback would require deviations from, exception to or variances from other established policies, legal requirements, or standards.

The proposed project would be set back at a distance of zero to approximately 26 feet from the riparian corridor along the length of the site and would encroach within approximately 1.8-acres of the 100-foot setback area. Encroachment of the project within the 100-foot setback would result in the following impacts on the adjacent riparian communities:

- Birds may be less likely to use areas that are in close proximity to tall buildings since they cannot see over when using a habitat area. As a result, tall buildings constructed within the 100-foot setback would reduce wildlife use on the adjacent portion of the Guadalupe River.
- Birds using the habitat along the Guadalupe River are expected to collide with the new towers which would reduce bird diversity and abundance in this area.
- The proposed towers would be located on the east side of the Guadalupe River and would shade the adjacent habitat throughout all or most of the morning year-round. Shading of the habitat by the towers could potentially affect the health and growth of the plants and degrade the riparian habitat long-term.

Based on the Downtown Strategy 2040 FEIR, future development proposals for parcels within 100 feet of the riparian corridor of Los Gatos Creek or the Guadalupe River shall assess the effects of the proposed structures (shading and thermal radiation) on riparian vegetation and creek temperatures. Projects that result in a 20 percent or more increase in shade or any increase in average daily temperature within the river corridor shall be required to: 1) alter their design to reducing shading; or 2) implement other measures to reduce instream water temperatures. Such measures could include increasing the setback or planting of additional shaded riverine aquatic habitat.

Since the existing riparian habitat immediately adjacent to the site is of moderate quality (as opposed to high quality) and is not expected to attract a large number of birds, these impacts would not affect regional populations of bird species that use the site nor would it result in a substantial degradation of riparian bird communities in the segment of the Guadalupe River adjacent to the site. Although the identified impacts would reduce the quality of the riparian habitat, the Biological Resources Report concluded that implementation of the project, by itself, would not result in a substantial degradation of riparian bird communities in this portion of the Guadalupe River. The riparian habitat adjacent to the project site is of moderate quality and the habitat is not expected to attract a large number of birds. In addition, compensatory mitigation shall be provided by the project applicant to offset project impacts on the ecological functions and values of the riparian corridor (refer to Mitigation Measure BIO(C)-1.1). Therefore, the proposed project would have a less than significant project-level impact from encroachment on riparian birds and habitat and would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.

As mentioned previously, the downtown area does not provide suitable habitat for any special-status plants. Although several special-status wildlife species are known to occur in the downtown area, the proposed project would be required to implement the identified Standard Permit Conditions listed below. Implementation of the project would have a less than significant impact on other sensitive natural communities.

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

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

There are no wetlands on-site; therefore, the proposed project would not affect any federally protected wetlands as defined by Section 404 of the Clean Water Act. The proposed project would not have a substantial adverse effect on any wetland habitat. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

An Avian Collision Risk Assessment was prepared which analyzed the potential bird collision issues with the proposed project. Resident birds that are present in the vicinity year-round use the Guadalupe River riparian habitat in moderate numbers for foraging and nesting opportunities. Some birds could move toward and onto the project site to forage and nest in the landscape vegetation.

Glass windows and building facades can result in injury or mortality of birds due to birds colliding with these surfaces. Because birds do not perceive glass as an obstruction the way humans do, they may collide with glass when the sky or vegetation is reflected in the glass (e.g., they see the glass as sky or vegetated areas); when transparent windows allow birds to perceive an unobstructed flight route through the glass (such as at corners); and when the combination of transparent glass and interior vegetation results in attempts by birds to fly through glass to reach that vegetation. The greatest risk of avian collisions with buildings occur within 40 to 60 feet above-ground, where most bird activity occurs. High-rise buildings (500 feet or taller) may pose a threat to birds that are migrating through the area. If the proposed project would have extensive glass façades, there is potential for birds to collide with these façades due to the following reasons:

- Under project conditions, trees and other landscaping would be present immediately adjacent to the building's glass façades (e.g., along the Guadalupe River and on the building's green roofs) and is expected to attract birds. The birds using the vegetation may not perceive the glass as a solid structure. The vegetation would be reflected in the glass of the building's façades, causing birds to fly towards the reflected "vegetation" and strike the glass.
- Birds may perceive the reflections of the sky in glass façades as an open flight path rather than solid glass, causing birds to strike the glass.
- Night lighting associated with the project has the potential to disorient the birds. As a result, birds migrating through the site at night may be disoriented by night lighting and could collide with the buildings.

Impact BIO-1: The proposed building design would result in bird collisions with the building's northern, western, and southern façades.

Mitigation Measures

MM BIO-1.1: Due to the potential for the proposed towers on the project site to result in a high number of bird collisions, prior to the issuance of any building permits, the project applicant shall implement the following bird-safe building design considerations at the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot riparian setback to comply with LEED Pilot Credit 55: Bird Collision Deterrence:

- At a height of 0 to 36 feet above-grade and 0 to 12 feet above any green roof, no more than 15 percent of the glazed area shall have a Threat Factor[23] higher than 75.
- All glazed corners or fly-through conditions, created when windows meet perpendicularly on a corner or when windows are installed parallel in close proximity such that a clear line of sight is created through the building, shall have a Threat Factor less than or equal to 25.

[23] A material's Threat Factor is assigned by the American Bird Conservancy, and refers to the level of danger posed to birds based on birds' ability to perceive the material as an obstruction, as tested using a "tunnel" protocol (a standardized test that uses wild birds to determine the relative effectiveness of various products at deterring bird collisions). The higher the Threat Factor, the greater the risk that collisions will occur. An opaque material will have a Threat Factor of 0, and a completely transparent material will have a Threat Factor of 100.

- All structures other than the main building(s) on-site, including but not limited to handrails, guardrails, windscreens, noise barriers, gazebos, pool safety fencing, bush shelters, band shells, etc., shall be constructed entirely of materials with a Threat Factor of 15 or lower.
- The combined façades shall achieve a maximum Bird Collision Threat Rating of 15 or lower.
- The project applicant shall develop a lighting design strategy to effectively eliminate or reduce light trespass from the building by either requiring that all interior lighting must be turned off by night-time personnel after hours when the space is unoccupied or controlled automatic shutoffs such that all lighting shall automatically shut off after the space is unoccupied for 30 minutes (with exceptions).
- The project applicant shall develop a lighting design strategy to effectively reduce or eliminate light trespass from exterior fixtures, either by shielding fixtures and programing them to automatically shut off from midnight until 6:00 AM or demonstrating that the project complies with the exterior lighting requirements of the latest published LEED for New Construction SS Credit, Light Pollution Reduction.
- The project applicant shall develop a three-year post-construction monitoring plan to routinely monitor the effectiveness of the building and site design in preventing bird collisions.

MM BIO-1.2: Prior to issuance of any building permits, the applicant shall submit a verification letter or plan to the Director of Planning, Building and Code Enforcement or Director's designee to ensure that all identified bird-safe design considerations have been met. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building design, as proposed, complies with LEED Pilot Credit 55: Bird Collision Deterrence.

The proposed project would be required to comply with the City's Riparian Corridor Protection and Bird-Safe Design Policy (Policy 6-34). Implementation of the mitigation measures identified above would reduce the number of bird collisions to less than significant. **[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact with Mitigation)]**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

There are 28 trees (both street trees and off-site) which could be impacted by the project. All these trees are non-native. For the purposes of this analysis, it is assumed that all 28 trees would be removed. Development of the project would result in the loss of 19 ordinance-sized trees (Tree Nos. two, four, six, nine to 11, 15, and 17 to 29). The Downtown Strategy 2040 FEIR includes specific measures that would reduce and avoid impacts to trees from full build out of the Downtown Strategy 2040.

Standard Permit Conditions:

The project shall be required to implement the following measures:

Tree Replacement. Replace all trees to be removed at the following ratios:

Table 3.2-2: Tree Replacement Ratios

Circumference of Tree to be Removed[1]	Type of Tree to be Removed[2]			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more[3]	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

[1] As measured 4.5 feet above ground level
[2] X:X = tree replacement to tree loss ratio
[3] Ordinance-sized tree
Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. One 24-inch box tree = two 15-gallon trees

The species and exact number of replacement trees to be planted on a given project site would be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. The planting and maintenance of replacement and street trees will be made conditions of development approval.

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

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Tree Protection Standards. The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the grading permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the

fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

In accordance with City policy, tree replacement would be implemented as shown in Table 3.2-2 above. If all 28 trees are removed, 19 trees would be replaced at a 4:1 ratio and eight trees would be replaced at a 2:1 ratio with 15-gallon containers. The remaining tree would be replaced at a 1:1 ratio with a 15-gallon container. The total number of replacement trees required to be planted would be 93. With implementation of the required Downtown Strategy 2040 measures, the proposed project would not conflict with any ordinance protecting biological resources, and would not result in a significant impact to trees and the community forest. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Condition 11 of the SCVHP (Stream and Riparian Setbacks) applies to all covered activities that may impact streams. The SCVHP-defined standard setback for the Guadalupe River, a Category 1 stream, is 100 feet. As mentioned previously, the proposed project would be set back zero to 26 feet from the riparian corridor and would encroach on approximately 1.8-acres of the 100-foot setback area. The City has requested an exception from Condition 11 for the proposed project.

For all proposed stream setbacks, exceptions shall be considered based on the following factors:

- The existence of legal uses within the setback.
- The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.
- The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standard regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
- The stream setback exception does not preclude achieving the biological goals and objectives of the SCVHP or conflict with other applicable requirements of the SCVHP and local policies.

Other considerations may be based on:

- The implications of a reduced setback on the riparian system and covered species, progress toward the biological goals and objectives of the SCVHP, and potential effects on adjacent properties; and
- If the exception would allow the project to avoid and minimize impacts on covered species and natural land cover types to the maximum extent practicable.

The SCVHP's findings[24] of the stream setback exception request are summarized below.

The existence of legal uses within the setback. The project's encroachment into the 100-foot setback would allow for the project to be designed to allow a major portion of the main structure, pedestrian and required fire access paths, landscaping with bioretention areas, and upgrades to the Guadalupe River Trail. The City of San José shall review and approve the project's conformance and consistency of uses with the City's Municipal Code, Zoning Ordinance, and Building/Fire requirements. The project would be consistent with legal uses within the setback.

The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant. The developable area outside the 100-foot setback (at the narrowest portion) would be 44 feet wide which would not provide adequate commercial space. According to the stream setback exception request, other avenues for greater setbacks were explored but were economically infeasible given the site orientation and trends in commercial space for attracting tenants. Due to these reasons, adherence to the 100-foot setback would make the project, as proposed, infeasible.

The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standard regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards. The proposed project is consistent with the City's Municipal Code and General Plan designation. The proposed improvements would allow for increased pedestrian connectivity, improved landscaping, and include bioretention and stormwater areas to collect rainwater flow.

The stream setback exception does not preclude achieving the biological goals and objectives of the SCVHP or conflict with other applicable requirements of the SCVHP and local policies. The SCVHP Conservation Strategy Biological Goals provides natural community level requirements to minimize potential impacts to sensitive biological resources (refer to page 5-7 of the SCVHP)[25]. Any development adjacent to Category 1 streams would require a 100-foot setback. In addition, the SCVHP provides that, regardless of project location, stream setback exceptions may not reduce a Category 1 stream setback to a distance less than 35-feet for existing or previously developed sites. As currently proposed, the project does not meet the biological goals and objectives of the SCVHP and would conflict with the SCVHP stream setback requirements. As a result, the proposed project would conflict with the provisions of the SCVHP and would result in a significant unavoidable impact.

Impact BIO-2: The project does not meet the biological goals and objectives of the Santa Clara Valley Habitat Plan (SCVHP) and would conflict with the SCVHP stream setback requirements.

[24] Santa Clara Valley Habitat Agency. *Condition 11 Exception Request*. April 7, 2020.
[25] Santa Clara Valley Habitat Agency. *Santa Clara Valley Habitat Plan.* Accessed May 18, 2020. https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

Mitigation Measures

As mentioned in Mitigation Measures BIO(C)-1.1, compensatory mitigation shall be provided to offset project impacts on the ecological functions and values of the riparian corridor. Even with the compensatory mitigation, there are no feasible mitigation measures available to reduce this impact except for redesign to increase the setback from the riparian corridor. Redesign is considered as an alternative to this SEIR and further discussion is provided in *Section 7.4, Alternatives*.

Additionally, the proposed project is designated as "Urban-Suburban" land. Private development in the SCVHP area would be subject to the requirements of the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;[26]
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
    - The project is located in an area identified as "Rural Development Equal to or Greater than Two Acres is Covered," or "Urban Development Equal to or Greater than Two Acres is Covered" or,
    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

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

The project would conflict with the biological goals and objectives of the SCVHP. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**

3.2.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant biological resources impact?

Stream/Riparian Buffer Encroachment

The potential for encroachment within the SCVHP-defined standard setback of 100 feet and its cumulative impacts on riparian functions and values along the Guadalupe River, as a whole, were analyzed. Encroachment of previous developments along the entire Guadalupe River has resulted in a cumulative impact on riparian bird communities over time due to the degradation of the riparian habitat, increase in human activity in and along the riparian corridor, and loss of open areas that birds can use for foraging or as flight paths in and out of the riparian corridor. Future development along the Guadalupe River would result in impacts on the same habitat types and species that would be affected by the proposed project.

Per the Biological Resources Report, if encroachment is generally permitted along streams within the City of San José and/or SCVHP permit area because the adjacent riparian habitat is determined to be moderate or low in quality, the encroaching development would contribute to a significant cumulative impact by further reducing habitat quality throughout a large area.

As a result, encroachment of the project within the standard 100-foot riparian setback would result in a considerable contribution to significant cumulative impacts without mitigation. The proposed project would encroach a total of 1.8 acres within the 100-foot setback. The project's contribution to cumulative impacts on the Guadalupe River riparian corridor (as a whole) due to encroachment would be cumulatively considerable as it represents a new type of development that would have a greater impact on the adjacent corridor (due to the reduction in wildlife use from the tall buildings, avian collisions with the new towers, and shading) compared to existing conditions.

Since the site is developed and is surrounded by development, encroachment within the 100-foot setback can occur to some extent and be mitigable. Based on the Biological Resources Report, encroachment within 35 feet[27] of the riparian corridor was determined to be acceptable with implementation of the following mitigation measures.

IMPACT BIO(C)-1: Construction and operation of the new buildings within 35 feet of the edge of the riparian corridor would result in a cumulatively considerable contribution to the Guadalupe River as a whole.

Mitigation Measures

The project shall implement the following mitigation measures to reduce the severity of the project's encroachment on the riparian corridor.

[27] The 35-foot setback was determined to be the appropriate minimum setback allowed by the SCVHP.

MM BIO(C)-1.1: **Compensation.** Prior to the issuance of any grading or building permits, the project applicant shall provide compensatory mitigation to offset project impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided as follows:

- Riparian habitat shall be enhanced or restored to native habitat along the immediately adjacent riparian corridor[28], and/or off-site on the Santa Clara Valley floor and within the City of San José[29], at a minimum ratio of 2:1 (compensation:impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback.

MM BIO(C)-1.2: **Riparian Habitat Mitigation and Monitoring Plan.** Prior to the issuance of any grading or buildings permits, the project applicant shall submit a *Riparian Habitat Mitigation and Monitoring Plan* (Plan) that describes the mitigation that shall be performed for on-site or off-site restoration/enhancement shall be prepared. The Plan shall be prepared and verified by a qualified biologist. The Plan shall include, but is not limited to, the following:

- Summary of habitat impacts and proposed mitigation ratios
- Goal of the restoration to achieve no net loss of habitat functions and values
- Location of mitigation site(s) and description of existing site conditions
- Mitigation design which includes:
    - Existing and proposed site hydrology
    - Grading plan if appropriate (including bank stabilization or other site stabilization features)
    - Soil amendments and other site preparation elements as appropriate
    - Planting plan
    - Irrigation and maintenance plan
    - Remedial measures and adaptive management
- Restoration/enhancement/mitigation design that is provided along the immediately adjacent riparian corridor shall, at the minimum, consist of the removal of non-native trees, shrubs, and vines and the planting of native riparian vegetation. Acreage will be credited based on the extent of nonnative vegetation removed.

[28] The applicant shall obtain permission from the City of San José and/or the Santa Clara Valley Water District (Valley Water) to restore/enhance the riparian corridor immediately adjacent to the project site. Valley Water may not grant permission for this work, as they often look for such opportunities as mitigation for their own projects.
[29] The proposed off-site mitigation may not be feasible if a suitable location cannot be found within the City of San José. Properties owned by the City where the restoration/enhancement may be possible include Kelley Park and Lake Cunningham Park.

- All restoration/enhancement along the adjacent Guadalupe River shall be conducted within the existing riparian canopy and not on the project site itself (i.e., not within areas that are currently paved) due to the presence of the Guadalupe River Trail. The Guadalupe River Trail separates the existing riparian vegetation from the site and precludes the creation of high-quality riparian habitat on-site.
- Off-site restoration/enhancement must restore or augment high-quality riparian habitat for birds. Such restoration shall need to occur in an area with sufficient setbacks and appropriate soils and hydrology to support high-quality riparian vegetation.
- The Plan shall also include final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of riparian vegetation type (e.g., dominance by natives) and extent appropriate for the riparian restoration location, and provision of ecological functions and values equal to or exceeding those in the riparian habitat affected. At a minimum, success criteria shall include following:

    - At Year 10 post-planting, canopy closure at the mitigation site shall be at least 60 percent of the canopy closure at a nearby reference site (i.e., a site supporting the same habitat type as that being established at the mitigation site).

  Monitoring methods and frequency shall be outlined in the Plan. The Plan shall include monitoring between Years 1 and 10 to document progress toward meeting the success criteria so that any necessary remedial actions can be taken to ensure that the success criteria are met. Monitoring beyond Year 10 shall be necessary if the success criteria is not met by Year 10, as monitoring is required until all success criteria defined in the Plan have been met.

  The Plan shall be implemented within one year following project impacts on riparian woodland. In addition, a letter signed by a qualified biologist accompanying the Plan shall be submitted to and approved by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading and building permits (whichever occur the earliest).

Per the Biological Resources Report, restoration/enhancement along the adjacent reach of the river would be affected by the encroachment/shading of new buildings constructed within the 100-foot setback, which would reduce the quality of riparian mitigation that could be performed within this

reach. Therefore, mitigation at a 2:1 ratio (rather than a lower ratio) is required even if restoration were provided immediately adjacent to the project area. Even with implementation of Mitigation Measures BIO(C)-1.1 and BIO(C)-1.2, encroachment of new buildings within 35 feet of the riparian corridor would still result in a cumulatively considerable contribution on the riparian corridor. **[New Cumulative Significant Unavoidable Impact (Less Than Significant Cumulative Impact)]**

Nesting Birds and Trees

Implementation of the proposed project could result in impacts to nesting raptors, migratory birds, and trees. The project would be subject to federal and state regulations that protect nesting birds. In addition, the proposed project would comply with the City's tree replacement ratio which would avoid and/or reduce the cumulative impact to nesting birds and trees. As a result, the project's contribution to a cumulatively significant impact to nesting birds and trees would not be considerable. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

3.3 NOISE AND VIBRATION

The following discussion is based upon a Noise and Vibration Assessment prepared by *Illingworth & Rodkin, Inc*. in June 2020. A copy of this report is attached in Appendix E of this document.

3.3.1 Environmental Setting

3.3.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[30] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[30] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

3.3.1.2 *Regulatory Framework*

State and Local

California Green Building Standards Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.3-1 below.

Table 3.3-1: Land Use Compatibility Guidelines for Community Noise in San José

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

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

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

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

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

In addition, the following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise and are applicable to the project.

General Plan Policies – Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

General Plan Policies – Noise and Vibration	
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 inch/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 inch/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

3.3.1.3 *Existing Conditions*

A noise monitoring survey was completed in the vicinity of the project site from March 13, 2019 to March 15, 2019. The noise monitoring survey included one long-term noise measurements (LT-1) for 24-hours and two short-term noise measurements (ST-1 and ST-2). Noise levels in the project area are primarily influenced by vehicular noise along South Almaden Boulevard, Interstate 280 (I-280), and SR 87. Aircraft flyovers from the Norman Y. Mineta San José International Airport are also audible on-site. Refer to Figure 3.3-1 for the noise monitoring locations.

LT-1 was made approximately 65 feet west of the centerline of South Almaden Boulevard. The hourly daytime noise levels ranged from 64 to 72 dBA L_{eq} while the hourly nighttime noise levels ranged from 58 to 69 dBA L_{eq}. The day-night average noise level was 72 dBA DNL.

ST-1 was made along the Guadalupe River Trail, approximately 205 feet west of the centerline of South Almaden Boulevard. The ambient noise levels at ST-1 ranged from 57 to 58 dBA. Cars on-site

FIGURE 3.3-1

NOISE MEASUREMENT LOCATIONS

generated a maximum instantaneous noise level of up to 66 dBA and an aircraft generated noise levels up to 77 dBA. The 10-minute average noise level measured at ST-1 was 63 dBA $L_{eq(10\text{-}min)}$.

ST-2 was made at the front of 276 Woz Way, which represents the nearest residential land uses. The ambient noise environment in the absence of local traffic, ranged from 59 to 62 dBA. Car pass-bys generated maximum instantaneous noise levels of 65 to 77 dBA, and a truck pass-by generated noise levels of 75 dBA. Additionally, jet flyovers produced noise levels that ranged from 76 to 82 dBA, and a train horn generated noise levels of 65 dBA. The 10-minute average noise level measured at ST-2 was 67 dBA $L_{eq(10\text{-}min)}$.

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, would the project result in:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
b) Generation of excessive groundborne vibration or groundborne noise levels?
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed according to General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would be less than significant, consistent with the Downtown Strategy 2040 FEIR, as described below.

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed office uses exceed 70 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project-generated noise level increases of 3.0 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard

with the addition of project noise, a noise level increase of 5.0 dBA DNL or greater is considered significant.

City of San José Standards

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

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5.0 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or 5.0 dBA DNL or more where noise levels would remain normally acceptable.

Construction Vibration

The City of San José relies on guidance developed by Caltrans[31] to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

3.3.2.1 *Project Impacts*

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction – Daytime Hours

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The proposed project would be constructed in a period of 51 months. Pile driving is not proposed. Based on General Plan Policy EC-1.7, a significant construction noise impact would occur if a project is located within 500 feet of residential uses or

[31] California Department of Transportation. *Transportation and Construction Vibration Guidance Manual.* September 2013. Accessed February 6, 2020. http://website.dot.ca.gov/env/noise/docs/tcvgm-sep2013.pdf.

200 feet of commercial or office and would involve substantial noise generating activities (such as building demolition, grading, excavation, use of impact equipment, or building framing) continuing for more than 12 months. There are existing residences located south of the project site and office buildings to the north and east. Additionally, the Children's Discovery Museum is located west of the site. The project proposes a construction period of 51 months, which exceeds the 12 month temporary construction noise threshold. In addition to the City's allowable hours of construction, the project proposes extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period.

Impact NOI-1: Project construction would last for a period of more than 12 months which would impact residents and nearby land uses.

Mitigation Measure

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of-sight

between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.

- 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 shall be strictly prohibited. Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible).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.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences
- Designate a "disturbance coordinator" who 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 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 it in the notice sent to neighbors regarding the construction schedule.

With implementation of Mitigation Measure NOI-1.1, the project would have a less than significant impact from the temporary increase in ambient noise levels in the project area.

Construction – Nighttime Hours

As mentioned above, the project proposes extended construction hours which would include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period. There are no noise thresholds for construction occurring outside the allowable hours. Per General Plan Policy EC-1.3, new nonresidential land uses shall mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses. In addition, the effects of operational noise from existing and new industrial and commercial development on adjacent uses shall be regulated through noise standards in the City's Municipal Code (General Plan Policy EC-1.6). For a 24-hour noise source, this would be equivalent to a noise level of 55 dBA L_{eq} during daytime hours (7:00 AM to 10:00 PM) and 45 dBA L_{eq} during nighttime hours (10:00 PM to 7:00 AM). As a result, a nighttime criterion of 45 dBA $L_{eq,}$ or the ambient where existing nighttime noise levels exceed the threshold, would be applicable to the analysis. This would include the nearby hotel to the northeast since occupants would be sleeping during nighttime hours. Nighttime activities at nearby sensitive receptors would primarily occur indoors; therefore, the exterior nighttime criteria would apply at the building façades and not at the property line.

Steady noise levels above approximately 35 dBA and fluctuating noise levels above approximately 45 dBA have been shown to negatively affect sleep. Standard residential construction with windows open provides approximately 15 dBA exterior-to-interior reduction. Assuming standard residential construction, sleep disturbance may occur when exterior noise levels exceed 50 dBA L_{eq} for steady noises and 60 dBA L_{eq} for fluctuating noises. Standard hotel construction with windows closed provides approximately 20 to 25 dBA in exterior-to-interior noise reduction. At the exterior building façade of the hotel, steady and fluctuating noise levels could exceed 55 dBA L_{eq} and 65 L_{eq}, respectively.

As mentioned in *Section 3.3.1.3,* existing ambient noise levels at LT-1 range from 58 to 69 dBA L_{eq} with an average of 63 dBA L_{eq}. The residences located southeast of the South Almaden Avenue/Balbach Street intersection are set back from the South Almaden Boulevard centerline by approximately 300 feet. At this distance and with partial shielding from the first row of buildings, the ambient noise level would average 53 dBA L_{eq} during nighttime hours. Since the noise-sensitive receptors located in the project vicinity are currently exposed to nighttime noise levels greater than 45 dBA L_{eq}, construction noise levels that are below ambient levels would not generally cause sleep disturbance.

For this analysis, a nighttime threshold of 63 dBA L_{eq} is used for the residences south of Woz Way and the hotel northeast of the project site. A nighttime threshold of 53 dBA L_{eq} is used for the residences southeast of the South Almaden Avenue/Balbach Street intersection. The nearby office buildings and museum would not be impacted by nighttime construction since operational hours of these buildings are during daytime hours only.

Concrete trucks and pumps would be used for the nighttime concrete pours. The location of concrete trucks and pumps are shown in the figure below. At a distance of 50 feet and assuming up to five

trucks and two pumps would be used at once, an hourly average noise level of 83 dBA L_{eq} would be generated during nighttime work. Reducing the number of trucks to three would reduce the hourly average noise level by one dBA.

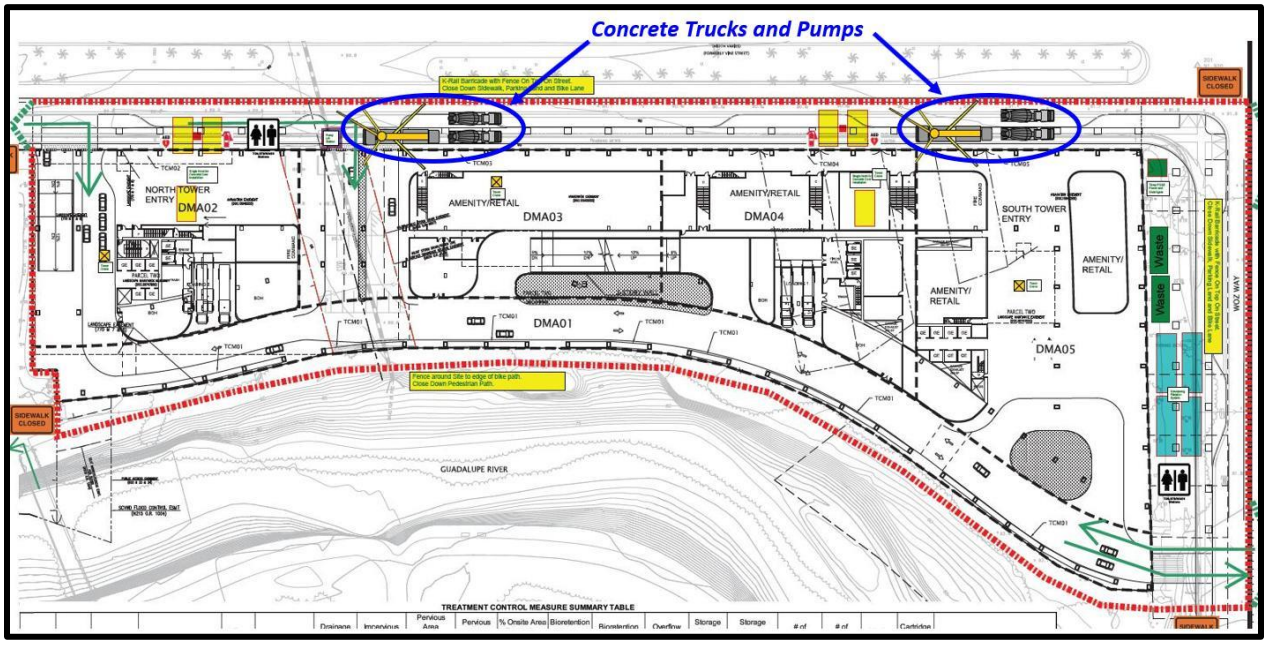


Figure 3.3-2: Location of Concrete Trucks and Pumps

The residences south of Woz Way or first row of residences (refer to in-text graphic below) would have direct line-of-sight to the construction site. The location of concrete trucks and pumps would be set back approximately 210 to 610 feet from the nearest residential building. Depending on the location of the concrete pour and assuming five concrete trucks, two pumps, and no shielding from the intervening buildings, hourly average noise levels would range from 61 to 71 dBA L_{eq} at the nearest residential façade. Concrete pours along the southern boundary of the site would increase ambient noise levels by up to eight dBA L_{eq}.

The second row of residences would be located approximately 265 to 665 feet from the nighttime work when equipment is located along South Almaden Boulevard. The second row of residences would be partially shielded from nighttime construction activity by the first row of residences which would provide a five dBA L_{eq} reduction in noise levels. Assuming five concrete trucks, two concrete pumps, and location of the construction work along South Almaden Boulevard, hourly average noise levels due to nighttime construction activities would range from 56 to 64 dBA L_{eq}. Concrete pours along the eastern boundary of the site would exceed ambient noise levels by one dBA L_{eq}[32]. The in-text graphic below shows the locations of the first and second row of residences.

[32] A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Therefore, a one to two dBA would not be noticeable to the human ear. Per City of San José Policy EC-1.2, project-generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the "Normally Acceptable" noise level standard.

Figure 3.3-3: Location of First and Second Row Residences

The hotel to the northeast would be 815 to 950 feet from equipment located along South Almaden Boulevard. At this distance, the occupants would be exposed to exterior construction noise ranging from 58 to 59 dBA L_{eq} (assuming five concrete trucks, two pumps, and no shielding). Ambient noise levels would not be exceeded during nighttime hours at the hotel.

The five nearest residences located southeast of the South Almaden Avenue/Balbach Street intersection (along Almaden Avenue) would be approximately 450 to 720 feet from the identified locations of concrete trucks and pumps. The buildings along South Almaden Boulevard would shield these residences during construction. Assuming a conservative noise level reduction of 10 dBA for the intervening buildings and five concrete trucks and two pumps are used, hourly average noise levels during nighttime concrete pours would range from 50 to 54 dBA L_{eq}. This would exceed the 53 dBA L_{eq} nighttime threshold by one dBA L_{eq}.

As shown in the Figure 3.3-2 above, concrete trucks and pumps would be located along Almaden Boulevard. If concrete trucks and pumps were positioned along Woz Way, the first and second row of residences to the south would be exposed to a noise level of up to 80 dBA L_{eq} and 70 dBA L_{eq}, respectively. This would exceed the nighttime noise threshold by 17 dBA L_{eq} and seven dBA L_{eq} when concrete pouring occurs along Woz Way. If concrete trucks and pumps are located along Woz Way, the residences located southeast of the South Almaden Avenue/Balbach Street intersection would be exposed to a nighttime noise level of up to 59 dBA L_{eq}. The ambient noise levels would potentially be exceeded by up to six dBA L_{eq}.

Impact NOI-2: Nighttime construction activities which include up to twelve (12) 24-hour concrete pours would impact up to 11 single-family residences located south and southeast of the project site.

Mitigation Measure

In addition to Mitigation Measure NOI-1.1 listed above and in conformance with General Plan Policy EC-1.7, the following mitigation measure would be implemented for nighttime construction.

MM NOI-2.1: Prior to issuance of any building permits and during all nighttime[33] construction activities, the project applicant shall implement the following measures to reduce nighttime noise impacts at nearby noise-sensitive residences:

- Limit the active equipment to as few pieces of equipment as possible.
- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours and/or the work sites shall be arranged to avoid the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to five dBA above the ambient near the operating equipment).
- Nighttime concrete pouring shall be restricted to the northernmost equipment location as shown in Figure 3.3-2 of this document or Figure 6 of Appendix G of this SEIR or a minimum distance of 270 feet from the southern and northern boundaries. No concrete trucks and pumps shall be operated along Woz Way during all nighttime activities.
- If nighttime construction noise results in excessive disruption, as defined below, to the 11 nearby residences after implementation of the aforementioned measures, the project applicant will be required to implement a construction noise monitoring plan. "Excessive disruption" as used in Mitigation Measure NOI-2.1 is defined as noise levels that are five dBA or more over the identified thresholds of 63 dBA L_{eq} exterior noise level at the first row of south residences and hotel; and 53 dBA L_{eq} at the southeast residences. The plan will include a provision for noise monitoring at the identified receptors, measured from the residential property line, to confirm that nighttime construction noise levels meet the applicable thresholds at the single-family residential land uses. Specifically, construction monitoring shall occur for the first two days of nighttime construction after initiation of the plan to demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds. If additional complaints are received after confirmation of the construction noise levels, additional monitoring will be required at regular intervals as outlined in the plan. In the event of noise complaints, the contractor will provide information (e.g., noise levels measured and

[33] Nighttime hours include hours outside of the City's allowable construction hours of 7:00 AM to 7:00 PM.

activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds) to the project applicant and the City within 48 hours of being notified of the complaint. The construction noise monitoring plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of building permits.

- Sensitive receptors identified by the noise monitoring plan with the potential to be exposed to nighttime construction noise levels exceeding 63 dBA L_{eq} at the southern residences or 53 dBA L_{eq} at the southeastern residences, shall be provided with vouchers for alternate accommodations for the specific dates that nighttime construction is scheduled.
- Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the nighttime construction schedule, in writing, at least seven days prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the liaison shall be conspicuously posted at the construction site.

With implementation of Mitigation Measure NOI-2.1 and the measures identified in the Downtown Strategy 2040 and conformance with General Plan Policy EC-1.7, the proposed project would result in a less than significant nighttime construction noise impact.

Operation

Project-Generated Traffic Noise Impacts

According to General Plan Policy EC-1.2, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by three dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of five dBA DNL or more would be considered significant. The City's General Plan defines the "normally acceptable" outdoor noise level standard for residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if traffic due to the proposed project would permanently increase ambient levels by three dBA DNL. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

The traffic study prepared by *Hexagon Transportation Consultants, Inc.* included peak hour turning movements for 11 existing intersections in the vicinity of the project site and peak hour project trips. By comparing the existing plus project traffic scenario to the existing scenario, the project's contribution to the overall noise level increase was calculated to be two dBA DNL or less along each roadway segment in the project vicinity. Therefore, the project would not result in a permanent noise increase of three dBA DNL or more at noise-sensitive receptors in the project vicinity. Operation of

the project would result in a less than significant traffic noise impact in the vicinity of the project site.

Mechanical Equipment Noise

The proposed project would include various mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, emergency generators, and other similar equipment that could increase ambient noise levels in the immediate project vicinity. Based on the site plan provided, back of house operations, primary switchgear, pump, service, and substation rooms would be located in the below-grade parking levels. The emergency electrical, emergency generator, and additional back of house operations rooms would be located on the ground floor. Electrical rooms would be located on floors two through 15. A mechanical penthouse which would consist of electrical rooms, cooling towers, and solar panels would be located on floor 16.

Most of the equipment rooms and all of the below-grade equipment rooms shown in the site plan would be located on the interior of the building. Due to the height of the penthouse level, noise levels due would not exceed 55 dBA DNL at the surrounding land uses. The emergency generators would be located on the ground floor. In the North tower, the emergency generator would be located along the western building façade, approximately 130 from the property line and approximately 200 feet from the Children's Discovery Museum property line. The emergency generator in the South tower would be located along the western building façade, approximately 295 feet from the nearest residential property line and approximately 215 feet from the Children's Discovery Museum property line. Additionally, an emergency generator would be located along the eastern building façade at the center of the project site.

At the time the analysis was completed, specific details such as quantity of each equipment and any noise suppressing features were not available (except for the proposed generators). A 1500 kW emergency generator and 750 kW generators have been identified for the proposed project. Under worst-case scenario, a 1500 kW generator could be located in any of the rooms closest to the adjacent buildings. At a distance of 50 feet, generators of this size would generate noise levels up to 89 dBA. With the inclusion of sufficient noise control features, noise levels could be reduced to 65 dBA at a distance of 50 feet from the generator room. Emergency generators are typically tested monthly for one hour between 7:00 AM and 10:00 PM. During the testing periods, noise levels due to generator operation would be below 50 dBA DNL at the surrounding noise-sensitive receptors.

Due to the height of the penthouse level, the project would not exceed the 55 dBA DNL at the surrounding land uses. Furthermore, pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses. In accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required as a Condition of Project Approval to implement the following measure:

Standard Permit Condition:

- Prior to the issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. The applicant shall retain a qualified acoustical consultant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise level requirements. Noise reduction

measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from the nearest residences), where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

With implementation of the Standard Permit Condition, the project would have a less than significant operational noise impact from mechanical equipment.

Truck Loading and Unloading

Loading areas would be located on the second floor of the below-grade parking garage. The noise from loading and unloading activities would be shielded from the surrounding noise-sensitive receptors. There are three ramps shown on the site plan that delivery trucks would use: one along the northern boundary of the project site from South Almaden Boulevard, another from South Almaden Boulevard towards the center of the site, and one located at the southwestern corner from Woz Way. The centerline of the access driveway closest to the office building would be approximately 65 feet from the property line of the office building. The centerline of the southernmost driveway would be 125 feet from the nearest residence property line and approximately 200 feet from the museum property line. At a distance of 35 feet from the centerline of the driveway, a heavy truck pass-by would generate noise levels ranging from 68 to 70 dBA.

Assuming up to two deliveries per day at each tower under the worse-case scenario, the adjacent office building would be exposed to noise levels of up to 54 dBA DNL, while the nearest residences and the museum would be exposed to truck delivery noise below 50 dBA DNL.

Truck deliveries occurring at the proposed project site would not exceed 55 dBA DNL or existing ambient conditions at the nearby noise-sensitive land uses. With implementation of the Condition of Project Approval noted above, the project would have a less than significant operational noise impact.

[Less Impact than Approved Project/Less Than Significant Impact (Significant Unavoidable Impact)]

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.20 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used is used to minimize the potential for cosmetic damage to historic structures. Based on the City of San José Historic Resources Inventory, there are no historical structures located within 200 feet of the project site.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Construction activities would include demolition of the existing parking lot, site preparation, grading/excavation, trenching, building exterior, building interior/architectural coating, and paving. The project does not propose pile driving. Construction vibration levels that could be expected from construction equipment is summarized below in Table 3.3-2.

Table 3.3-2: Vibration Levels at Nearby Land Uses

Equipment		PPV (in/sec)				
		Office Building (45 feet)	**Convention Center (115 feet)**	**Office Building (150 feet)**	**Residences (85 feet)**	**Children's Discovery Museum (250 feet)**
Clam shovel drop		0.106	0.038	0.028	0.053	0.016
Hydromill (slurry wall)	in soil	0.004	0.001	0.001	0.002	0.001
	in rock	0.009	0.003	0.002	0.004	0.001
Vibratory Roller		0.110	0.039	0.029	0.055	0.017
Hoe Ram		0.047	0.017	0.012	0.023	0.007
Large bulldozer		0.047	0.017	0.012	0.023	0.007
Caisson drilling		0.047	0.017	0.012	0.023	0.007
Loaded trucks		0.040	0.014	0.011	0.020	0.006
Jackhammer		0.018	0.007	0.005	0.009	0.003
Small bulldozer		0.002	0.001	0.0004	0.001	0.0002

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006.

Although vibration levels would be perceptible to the adjacent residences and businesses, vibration levels would be below the 0.20 in/sec PPV vibration limit, consistent with General Plan Policy EC-2.3. In addition, with the Standard Permit Conditions identified above, the project would be limited in hours of construction. As a result, implementation of the project would have a less than significant groundborne vibration impact on adjacent buildings and uses.

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

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The Norman Y. Mineta San José International Airport is located approximately 2.1 miles northwest of the project site. The project site lies near the 65 dBA CNEL 2027 noise contour and future exterior noise levels would be up to 65 dBA CNEL/DNL at the project site. According to General Plan Policy EC-1.11, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. The proposed project would not expose people working in the project area to excessive noise levels. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.3.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative noise impact?

The project's noise and vibration impacts are localized; therefore, the geographic study area is the project site and surrounding area (within 1,000 feet of the project site). Construction of the proposed project could occur at the same time as the following projects:

- Museum Place development (approximately 700 feet northeast)
- 200 Park Avenue Office (approximately 785 feet northeast)
- CityView Plaza Office (approximately 950 feet north)
- Balbach Affordable Housing (approximately 200 feet southeast)

Of the projects listed above, 200 Park Avenue has begun construction. Construction activities for projects within 1,000 feet would last more than 12 months. All four projects would individually impact the nearby residential receptors and when combined, would have a cumulative considerable noise impact even with inclusion of the respective mitigation measures. Due to the size of each project and length of time project construction would take, the receptors within the immediate vicinity would be exposed to significant unavoidable construction noise impact. **[New Cumulative Significant Unavoidable Impact (Less Than Significant Cumulative Impact)]**

3.3.2.3 *Non-CEQA Effects*

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project. General Plan Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review.

Future Exterior Noise Levels

Per General Plan Policy EC-1.1, the City's acceptable exterior noise level objective is 70 dBA DNL for office land uses except in the environs of the Norman Y. Mineta San José International Airport and the downtown. Based on the site plan, the project proposes outdoor dining areas on the ground

floor at the rear of the towers and in between the towers. In addition, terraces are proposed on floors two to 15 of the South Tower and on floors two and four to 15 of the North Tower.

The dining areas on the ground floor would be mostly shielded from I-280 and SR 87; however, these outdoor use areas would have direct line-of-sight to South Almaden Boulevard. Setbacks from the centerline would be as close as 90 feet from the centerline of South Almaden Boulevard. At a distance of 90 feet, the proposed dining areas along the front of the towers would have a future exterior noise level of up to 75 dBA DNL which would exceed the City's exterior noise threshold of 70 dBA DNL.

The proposed outdoor dining areas at the rear of the buildings would be mostly shielded from I-280, SR 87, and South Almaden Boulevard by existing buildings and the buildings on-site. As a result, the future exterior noise level at the rear would be below 70 dBA DNL.

The terrace located on the northern façade of the second floor would be partially shielded from South Almaden Boulevard by the proposed building. This terrace would have a direct line-of-sight to South Almaden Boulevard. At a distance of 140 feet from the centerline of South Almaden Boulevard and assuming partial shielding, the future exterior noise level at this terrace would be below 70 dBA DNL.

The terraces proposed on floors three and four would have more shielding compared to the second floor due to its increased elevation from South Almaden Boulevard. The future exterior noise levels at floors three and four would be below 70 dBA DNL. An outdoor terrace on the fifth floor would be partially shielded by the towers on the north and south side of the terrace, providing a line-of-sight to South Almaden Boulevard. At this distance and with additional shielding from the elevation of the terrace, the future exterior noise levels would be below 70 dBA DNL. For the remaining terraces, the increased elevation would result in a future noise level at or below 70 dBA DNL.

The outdoor seating areas with direct line-of-sight to South Almaden Boulevard would be exposed to future exterior noise levels exceeding the City's 70 dBA DNL threshold.

Per General Plan Policy EC-1.1, the acceptable exterior noise level objective has been established for the City except in the environs of the Norman Y. Mineta San José International Airport, the downtown core area, and along major roadways. As a result, the proposed project would be consistent with General Plan Policy EC-1.1.

Future Interior Noise Levels

The CALGreen code requires that interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use. The eastern building façade would be setback from the centerline of South Almaden Boulevard by approximately 65 to 70 feet. At the nearest building façade facing the roadway, future hourly average noise levels would range from 67 to 75 dBA $L_{eq(1\text{-}hr)}$ during daytime hours. The day-night average noise level would be 75 dBA DNL at the building exterior.

Standard construction for commercial uses would provide approximately 25 dBA of noise reduction from exterior noise sources. The inclusion of adequate forced-air mechanical ventilation systems

would provide an additional five dBA noise reduction. The use of standard construction in combination with forced-air mechanical ventilation would comply with CALGreen's acceptable interior noise level of 50 dBA $L_{eq(1\text{-}hr)}$.

Consistent with General Plan Policy EC-1.1 and the CALGreen requirements, the proposed project would be required to implement the following Condition of Project Approval.

Condition of Project Approval:

- Provide forced-air mechanical ventilation and sound rated windows to maintain interior noise levels at acceptable levels. A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the final design phase of the project pursuant to requirements set forth in the General Plan and State Building Code. The qualified acoustical specialist shall review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce interior noise levels to 50 dBA $L_{eq(1\text{-}hr)}$ or lower, and address and adequately control noise from rooftop equipment on adjacent buildings, as necessary. Treatments would include, but are not limited to, sound-rated windows and doors as specified above, acoustical caulking, protected ventilation openings, etc. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, along with the building plans and approved design, prior to issuance of a building permit.

With implementation of the Condition of Project Approval, the proposed project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1.

SECTION 4.0 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 Envision San José 2040 General Plans).

The project is proposed on an infill site in the City of San José. As proposed, the project applicant would intensify the use of the site by constructing two 16-story office towers (totaling approximately 1,727,777 square feet). There is currently a shortage of available jobs relative to available housing within the City of San José. This jobs/housing imbalance is expected to reverse with full build out of the Envision San José General Plan 2040. The proposed project would result in an increase of employees in the City (up to 8,558 full-time employees) and would incrementally decrease the overall jobs/housing imbalance within the City. If growth anticipated from the Downtown Strategy occur as planned, including substantial new employment uses beyond the needs of the local workforce, an indirect effect of that job growth would be inducing population growth elsewhere. As a result, full build out of the Downtown Strategy 2040 would have the potential to indirectly induce growth outside of the City. New job growth in the City could result in an indirect effect on population growth elsewhere. Since the project is consistent with the planned growth in the Downtown Strategy 2040, the proposed project would contribute to the significant unavoidable impact previously identified in the Downtown Strategy 2040.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

The proposed project would redevelop a site that is currently occupied by an existing parking lot. Future development on-site would involve the use of non-renewable resources both during construction phases 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. Upon completion of new construction on-site, occupants would use non-renewable fuels to heat the buildings. The proposed project would also result in the increased consumption of water.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed project would be constructed in compliance with CALGreen requirements, the City's Council Policy 6-32 and the City's Green Building Ordinance. In addition, the project would be constructed consistent with City Council Policy 6-29 and the Regional Water Quality Control Board Municipal Regional Stormwater National Pollution Discharge Elimination System Permit to avoid impacts to waterways. The project site is located in the downtown area which provides future employees to existing transportation networks and other downtown services. As a result, the proposed project would facilitate a more efficient use of resources over the lifetime of the project.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

- Air Quality: Construction activities associated with the proposed project would expose off-site receptors to $PM_{2.5}$ emissions in excess of BAAQMD thresholds.
- Air Quality: The project would have a significant unavoidable operational $PM_{2.5}$ impact to the off-site MEI.
- Cumulative Air Quality: The maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources.
- Biological Resources: The project does not meet the biological goals and objectives of the SCVHP and would conflict with the SCVHP stream setback requirements.
- Cumulative Biological Resources: Construction and operation of the new buildings within 35 feet of the riparian edge would result in a cumulatively considerable contribution to the Guadalupe River as a whole.
- Cumulative Noise and Vibration: All four nearby projects would individually impact the nearby residential receptors and when combined, would have a cumulative considerable noise impact even with inclusion of the respective mitigation measures.

SECTION 7.0 ALTERNATIVES

7.1 OVERVIEW

CEQA requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

> **Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project.** 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. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
>
> **Section 15126.6(b). Purpose.** Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.2 OBJECTIVES OF THE PROJECT

While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The stated objectives of the project proponent are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 of locating usable[34] high density development on infill sites along transit corridors. Key to meeting these goals is bringing people to the downtown area to foster transit use and the efficiency of urban services and strengthen downtown as a regional job, entertainment, residential, and cultural destination and as the symbolic heart of San José.

2. Advance the principal of "Smart Growth" by replacing a surface parking lot with a new high-density office campus with amenity/retail, public space and associated parking.

3. Provide Class A office, amenity/retail, and public space that supports employment and activity; thereby increasing the job base within the downtown and contribute to the economic feasibility of San José.

4. Construct and program active space at street level with amenity/retail spaces that are pedestrian oriented to enliven the streetscape of the downtown pedestrian network along Almaden Boulevard and create a lively ground level experience for pedestrians.

5. Provide publicly accessible courtyards and pedestrian paseos that will serve as a community recreational and gathering space and to connect the surrounding neighborhood with the Guadalupe River.

6. Maximize use of an underutilized infill site by providing office, amenity/retail, and public space in an area served by various modes of public transportation such as the Caltrain, VTA light rail and buses, and planned BART extension to downtown; thereby creating opportunities to reduce vehicle miles traveled.

7. Provide a project with optimal self-park and/or valet parking spaces to service the office, amenity/retail, and public space for ease and efficiency and to meet the needs of the project.

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

9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

10. Improve street frontages and landscaping along the boundaries of the project on both sides, along Almaden Boulevard and along the Guadalupe River to standards consistent with the General Plan.

[34] Based on a proforma analysis provided by the applicant, usable space is defined as having an optimal floorplate size of at least 40,000 square feet for Class A office buildings.

7.3 SIGNIFICANT IMPACTS FROM THE PROJECT

The CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve most of the project objectives. Impacts that would be significant include:

- Air Quality: Construction activities associated with the proposed project would expose off-site receptors to $PM_{2.5}$ emissions in excess of BAAQMD thresholds. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**
- Air Quality: The project would have a significant unavoidable $PM_{2.5}$ concentration impact to the off-site MEI. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**
- Air Quality: Construction and operational activities associated with the proposed project would expose the off-site maximum exposed individual to cancer risk in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**
- Cumulative Air Quality: The maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources. **[Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)]**
- Biological Resources: The proposed building design would result in bird collisions with the building's northern, western, and southern façades. **[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant Impact with Mitigation)]**
- Biological Resources: The project does not meet the biological goals and objectives of the SCVHP and would conflict with the SCVHP stream setback requirements. **[New Significant Unavoidable Impact (Less Than Significant Impact)]**
- Cumulative Biological Resources: Construction and operation of the new buildings within 35 feet of the riparian edge would result in a cumulatively considerable contribution to the Guadalupe River as a whole. **[New Cumulative Significant Unavoidable Impact (Less Than Significant Cumulative Impact)]**
- Hazards and Hazardous Materials: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact)]**
- Noise and Vibration: Project construction would last for a period of more than 12 months which would impact residents and nearby land uses. **[Same Impact as Approved Project (Less than Significant Impact)]**
- Noise and Vibration: Nighttime construction activities which includes up to twelve (12) 24-hour concrete pours would impact up to 11 single-family residences located south and southeast of the project site. **(New Less Than Significant Impact with Mitigation)**
- Cumulative Noise and Vibration: All four nearby projects would individually impact the nearby residential receptors and when combined, would have a cumulative considerable noise impact even with inclusion of the respective mitigation measures. **[New Cumulative Significant Unavoidable Impact (Less Than Significant Cumulative Impact)]**

7.4 ALTERNATIVES

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but

would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), italics added.) 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.)
The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project – No New Development
- Reduced Development Alternative 1 (Option 1) – Reduce Square Footage With 35 Foot Setback
- Reduced Development Alternative 1 (Option 2) – Reduce Square Footage With 100 Foot Setback
- Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height

7.4.1 Project Alternatives

7.4.1.1 *Considered & Rejected*

Location Alternative

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".[35] The project proposes to construct two 16-story office towers (approximately 1,727,777 square feet) on an approximately 3.57-acre site in the downtown area. The alternative location should be large enough to support high-density office and be located within the downtown area.

It is reasonable to assume that there are two sites (Valley Title lot at 300 South First Street and the San Pedro Square lot located at 64 North Market Street) in the downtown area that are large enough to support the office development proposed on-site. Due to the location of these two sites, the proposed office development would avoid impacts to the riparian corridor. If the surface lots at the alternative sites were to be redeveloped with the project, it is reasonable to assume that all construction-related air quality impacts would be the same. This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area.

Modified Construction Schedule

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM to 7:00 PM on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. As proposed, the project would have extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction

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

period. An alternative that analyzes reduced or no extended construction hours was not considered because it cannot be assumed that the proposed concrete pours could be achieved within the City's allowable hours of construction without modifying the applicant's proposed construction timeline or affecting the planned design and engineering of the building.

7.4.1.2 *No-Project – No Development 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 existing pay-to-park public parking lot as is. If the project site were to remain as is, there would be no significant impacts. This alternative would not meet any of the project objectives. The City would lose the opportunity to redevelop an underutilized site downtown and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density development on a downtown infill site near transit.

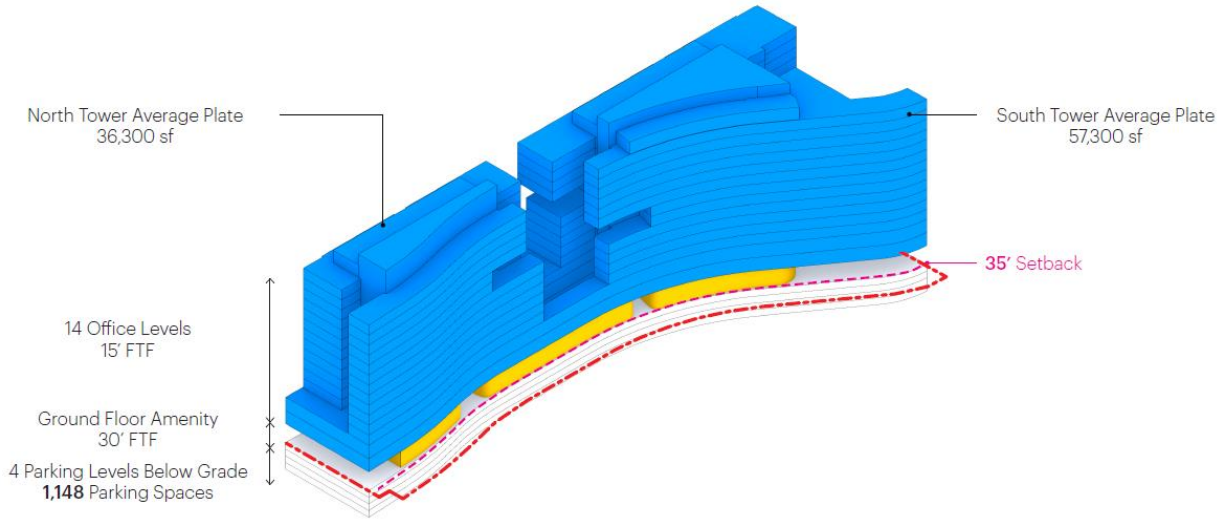
Based on the zoning district for the project site, *DC – Downtown Primary Commercial*, permitted uses include offices and financial services, general retail, education and training, entertainment and recreation, food services, general services, public and quasi-public uses such as religious assembly and community centers, and residential. It is possible that in the future an alternative development proposal, such as another office building, may be presented for the project site. The office development would be comparable in density to scale to what is currently proposed, assuming that any proposal would try to maximize development on-site consistent with the development anticipated in the downtown area. Any future development proposals for the site would require review and approval by the City of San José.

7.4.1.3 *Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback*

The proposed project would have significant and unavoidable air quality impacts during construction and operation. In addition, the project would contribute to a cumulatively considerable impact due to the encroachment of the new buildings within the Guadalupe riparian corridor (as a whole). The only way to reduce these impacts would be to reduce the size of the project. Any development scenario with a smaller project of any size would involve a shorter construction timeframe since it would require less excavation for parking and less heavy equipment on-site. This would lessen the significant unavoidable air quality as compared to the proposed project.

Under this alternative, the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a combined office and amenity space square footage of 1,659,795 square feet[36] as shown in the figure below. This alternative would include four levels of below-grade parking for a total of 1,148 parking spaces. The proposed building would be set back from the Guadalupe River riparian corridor by 35 feet.

[36] Includes the basement square footage.



The Greyhound Residential Project (File No. SP16-021 & T16-017) is located just north of the project site. The project proposed two residential towers totaling 1,029,065 square feet. The air quality analysis for the project concluded that criteria pollutant emissions would be less than significant. Child cancer risk from TACs was calculated to be 36.5 cases per million but was reduced to 6.0 cases per million which is below BAAQMD's significance threshold of 10 cases per million with mitigation comparable to the mitigation identified in this SEIR for the proposed project. Additionally, the maximum annual $PM_{2.5}$ concentration was calculated to be 0.396 µg/m^3 but was reduced to 0.14 µg/m^3 with mitigation comparable to the mitigation identified in this SEIR. It is reasonable to assume that if the buildings were reduced to a size equivalent to the Greyhound Residential Project, the significant unavoidable air quality impacts from construction would be reduced to a less than significant level with mitigation.

With a total square footage 1.3 million and an additional floor of underground parking, this alternative would have the same construction air quality impacts as the proposed project.

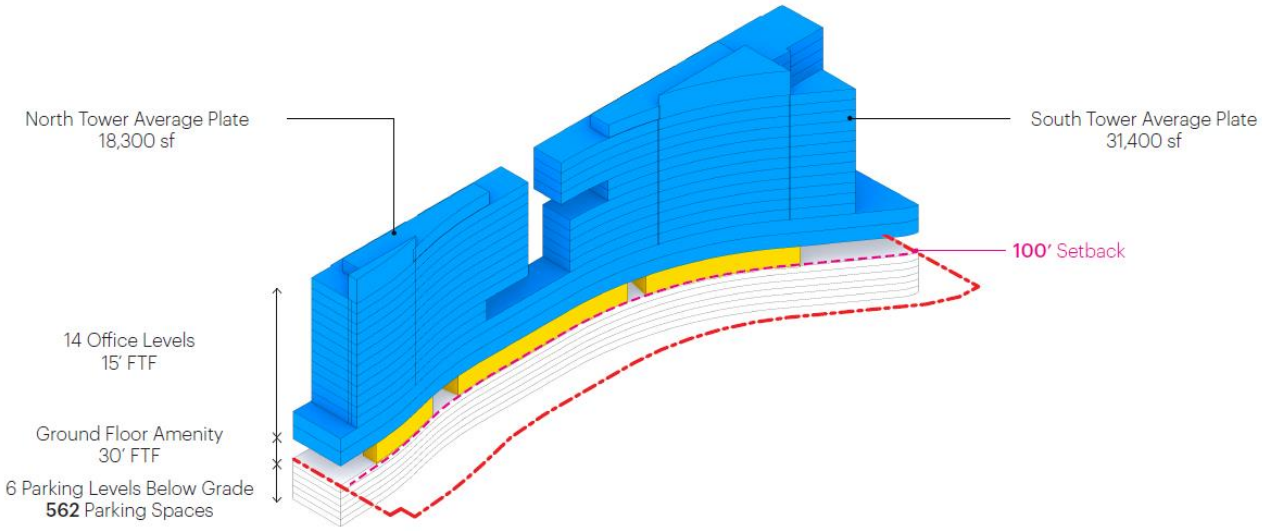
The reduction in building size would provide a greater setback from the riparian corridor compared to the proposed project. The significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and implement Mitigation Measure BIO(C)-1.1.[37] Under this alternative, encroachment within 100 feet of the riparian corridor would need to be granted by the Habitat Agency and the City of San José.

Additionally, although construction would likely take more than 12 months (General Plan Policy EC-1.7) under this alternative, the sensitive receptors and adjacent land uses would be exposed to construction noise for a shorter time frame. All other impacts would remain the same. The project proposed under this alternative would be consistent with project objectives 1, 2, 3, 4, 5, 7, 8, 9, and 10.

[37] Carle, Robin. Associate Ecologist, H.T. Harvey & Associates. Personal communications. February 21, 2020.

7.4.1.4 *Reduced Development Alternative 1 (Option 2) – Reduced Square Footage With 100 Foot Setback*

Under this alternative, the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a combined office and amenity space square footage of 828,070 square feet[38] as shown in the figure below. This alternative would include six levels of below-grade parking for a total of 562 parking spaces. Unlike the *Reduced Development Alternative Option 1*, the proposed building would be set back from the Guadalupe River riparian corridor by 100 feet.



As noted in Alternative 7.4.1.3, a project that is less than 1.0 million square feet would be able to reduce construction air quality impacts to a less than significant level with mitigation. This alternative would have six levels of below-grade parking, which would require more extensive excavation than the proposed project. Nevertheless, since the square footage under this alternative would be substantially reduced to 828,070, the significant unavoidable air quality impacts from construction and operation would be reduced to a less than significant level with mitigation.

Since the setback proposed under this alternative would not encroach within 100 feet of the riparian corridor, this alternative would avoid the significant unavoidable cumulative impact to the Guadalupe River riparian corridor as a whole. All other impacts would remain the same. This project would be consistent with project objectives 3, 4, 5, 7, 8, 9, and 10.

7.4.1.5 *Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height*

The proposed project would construct two 16-story office towers with a combined FAR of 11.1. The existing General Plan designation allows for a maximum FAR of 30.0 (three to 30 stories). Under this alternative, the office towers would be built to the maximum allowable height, consistent with the General Plan designation, with a smaller building footprint. Similar to the *Reduced Development Alternative 1*, the reduction in the building footprint would allow for a greater setback from the riparian corridor. The significant unavoidable encroachment impact would be avoided if the towers

[38] Includes the basement square footage.

are set back at least 35 feet from the Guadalupe River riparian corridor and implement Mitigation Measure BIO(C)-1.1. Since the office towers would be taller than what is currently proposed, it is reasonable to assume that the sensitive receptors and adjacent land uses would be exposed to construction noise for a longer time frame. Under this alternative, construction activities would expose off-site receptors to $PM_{2.5}$ emissions in excess of BAAQMD thresholds. The maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources. The air quality impacts would remain significant and unavoidable. The project proposed under this alternative would be consistent with project objectives 1, 2, 3, 4, 5, 7, 8, 9, and 10.

7.4.2 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).

Based on the above discussion, the environmentally superior alternative is the *No Project Alternative – No Development Alternative*. However, this alternative would achieve none of the project objectives. Beyond the *No Project – No Development Alternative*, the *Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback* would be the environmentally superior alternative because it would reduce the significant construction air quality impact to a less than significant level and it would reduce the project's cumulatively considerable contribution to the Guadalupe River riparian corridor with implementation of Mitigation Measures BIO-1.1. This alternative would meet nine of the 10 project objectives.

SECTION 8.0 REFERENCES

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

BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed February 13, 2020. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

CARB. "Overview: Diesel Exhaust and Health." Accessed February 13, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

Carle, Robin. Associate Ecologist, H.T. Harvey & Associates. Personal communication. February 21, 2020.

CEQA Guidelines Section 15126.6(f)(2)(A)

City of San José. Envision San José 2040 General Plan. November 2011.

City of San José. Integrated Final Environmental Impact Report Downtown Strategy 2040. December 2018.

City of San José. San José Downtown Strategy 2040 Integrated Final EIR. December 2018.

H.T. Harvey & Associates. *South Almaden Offices Project – Biological Resources Report*. April 10, 2020.

Hexagon Transportation Consultants, Inc. *South Almaden Office Towers Development Transportation Demand Management Plan*. January 23, 2020.

HMH. *Arborist Report*. January 31, 2019.

Illingworth & Rodkin, Inc. *South Almaden Offices Air Quality and Greenhouse Gas Emission Assessment*. June 24, 2020.

Illingworth & Rodkin, Inc. *South Almaden Offices Noise and Vibration Assessment*. June 23, 2020.

Santa Clara Valley Habitat Agency. *Condition 11 Exception Request*. April 7, 2020.

Santa Clara Valley Habitat Agency. "GIS Data & Key Maps". Accessed March 19, 2019. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

Santa Clara Valley Habitat Agency. *Santa Clara Valley Habitat Plan.* Accessed May 18, 2020. https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

Sowa, Bill. HMH Engineers. February 21, 2020.

U.S. Department of the Interior. M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take. Accessed January 21, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Verrips, Joanne. Director – Precon & Estimating,Webcor. Personal communications. July 22, 2020.

SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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Thai-Chau Le, *Supervising Planner*
Kara Hawkins, *Environmental Project Planner*

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Phase I Environmental Site Assessment

Hexagon Transportation Consultants
Gilroy, CA
Traffic

Holman & Associates
San Francisco, CA
Archaeological Literature Search

HMH Engineers
San José, CA
Arborist

H.T. Harvey & Associates
Los Gatos, CA
Biology

Illingworth & Rodkin
Cotati, CA
Air Quality, Greenhouse Gas Emissions, and Noise

San José Water
San José, CA
Water Supply Assessment