

3.9 Land Use

This section describes the existing environmental setting, summarizes the regulatory framework related to land use and planning and shadow, and analyzes potential impacts of the proposed project related to these topics.

The analysis discusses whether the proposed project would be consistent with applicable land use plans and policies that were adopted for the purpose of avoiding or mitigating an environmental effect. Land use policies are policies that pertain to the type, location, and physical form of new development. For this analysis, policies “adopted for the purpose of avoiding or mitigating an environmental effect” are those that, if implemented and adhered to, would avoid or mitigate physical impacts on the environment. Other policies that relate to avoiding or mitigating an environmental effect are considered in other environmental resource evaluations in Chapter 3, *Environmental Setting, Impacts, and Mitigation*. The Planning Commission and City Council staff reports for the proposed project will include a complete discussion of *Envision San José 2040 General Plan* (General Plan) policies and other applicable City policies.

CEQA Guidelines Section 15125 states that the EIR shall discuss “any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans.” Accordingly, the regulatory framework discussion considers potential inconsistencies between the proposed project and relevant regional and local plans and policies. The relevant regional and local plans addressed in this section are the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments’ (ABAG) Sustainable Communities Strategy, *Plan Bay Area 2040* (Plan Bay Area), the San José International Airport Comprehensive Land Use Plan (CLUP), the General Plan, the City of San José Zoning Ordinance (Title 20, Zoning), the Downtown Strategy 2040, and the Diridon Station Area Plan (DSAP).

3.9.1 Environmental Setting

Land Use and Planning

Planning Background

From its founding in 1777 through World War II, the city of San José experienced relatively modest growth. However, after World War II, San José grew at a rapid pace, expanding from its Downtown area into geographically dispersed neighborhoods and smaller semi-rural communities. To accommodate the city’s growth between World War II and 1960, the City constructed a water pollution control plant (now the San José–Santa Clara Regional Wastewater Facility) and pursued a policy of aggressive annexation, active business attraction policies, and flexible land use regulation.¹

¹ City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at <https://www.sanjoseca.gov/home/showdocument?id=22359>. Accessed January 16, 2020.

After decades of rapid growth, the City's 1975 general plan outlined policies to address traffic congestion, flooding issues, hillside development, and school crowding.² Through the 1980s, the City and Santa Clara County's transportation authority began considering the linkages between land use and transportation planning to support Downtown, transit-oriented development, and bicycle and pedestrian movement.³

The San José 2020 General Plan (1994) continued the trend of planning for more compact growth, reducing opportunities for urban growth at the city's edge, committing to higher intensity infill development along identified intensification corridors (generally along existing and planned light rail corridors).⁴ In 1996, the City incorporated its urban growth boundary into its general plan.⁵

In 2011, the City adopted its current general plan, *Envision San José 2040*. The General Plan set forth 14 major strategies for community-based planning, form-based planning, focused growth, innovation and development as a regional employment center, concentration of growth in so-called urban villages, streetscapes, sustainability and environmental stewardship, fiscal strength, Downtown vibrancy, concern for natural resources, community health, and periodic General Plan review. (Specific General Plan policies are discussed in Section 3.9.2, *Regulatory Framework*.)

As of 2017, San José was the third most populous city in California, with just over 1 million residents, and Santa Clara County was the sixth most populous county in California.⁶ Approximately 83,000 acres (68 percent) of the land in San José's urban growth boundary is developed land with urban uses.⁷

Refer to Section 3.3, *Cultural Resources and Tribal Cultural Resources*, for additional detail regarding the history of the project site and surrounding area.

Land Uses Surrounding the Project Site

To the north, the project site is bounded by a Caltrain equipment maintenance and operations facility and, across the Union Pacific Railroad tracks, by the San José Market Center retail center, which includes a Target store and other retail uses. North of West Santa Clara Street and east of the project site is a mix of one- to two-story commercial and residential buildings. Among the commercial buildings are a produce distribution center, a tobacco products distribution facility, automotive repair shops, and a restaurant. Also in this area is an office building occupied by the Santa Clara County Housing Authority. The remaining uses immediately east of the project site

² City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at <https://www.sanjoseca.gov/home/showdocument?id=22359>. Accessed January 16, 2020.

³ City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at <https://www.sanjoseca.gov/home/showdocument?id=22359>. Accessed January 16, 2020.

⁴ City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at <https://www.sanjoseca.gov/home/showdocument?id=22359>. Accessed January 16, 2020.

⁵ City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at <https://www.sanjoseca.gov/home/showdocument?id=22359>. Accessed January 16, 2020.

⁶ U.S. Census Bureau, 2013–2017 American Community Survey 5-Year Estimates. Available at https://data.census.gov/cedsci/table?t=Populations%20and%20People&tid=ACSDP5Y2017.DP05&hidePreview=true&vintage=2017&layer=VT_2018_050_00_PY_D1&cid=S0101_C01_001E&g=1600000US0668000_0500000US066085. Accessed September 9, 2019.

⁷ H. T. Harvey & Associates, *Envision San José 2040 General Plan Update Biological Resources Report*, August 18, 2010.

and north of the SAP Center are six single-family homes and two transitional housing facilities operated by LifeMoves.

The SAP Center is an indoor arena with approximately 18,000 seats, located on the north side of West Santa Clara Street at South Autumn Street. The SAP Center borders the project site to the east. The arena's primary tenant is the San José Sharks of the National Hockey League. The SAP Center also hosts concerts, ice shows, and other events.

South of the SAP Center and east of the project site, the site is bordered by State Route (SR) 87, Los Gatos Creek, and various commercial uses including automotive repair shops, a security staffing and logistics business, a vacant commercial/industrial building, a three-story office building, a gas station, a window and shade business, a mini-mall, and a gas station. Beyond the commercial uses and south of West San Fernando Street are the Lakehouse, Park-Lorraine, and Auzerais-Josefa residential neighborhoods. The eight-story Delmas Park affordable housing building, which has ground-floor retail space, on the southeast corner of West San Carlos Street and Bird Avenue, is located across West San Carlos Street from the project site.

South of the project site, the surrounding land uses include an auto-related business, two single-family homes, a construction equipment business, an auto-related business, a window and door business, and a paint store.

The Caltrain tracks extend along the entire west side of the project site. The only land uses between the Caltrain tracks and the project site are the San José Diridon Station and a surface parking lot. West beyond the Caltrain tracks are a Pacific Gas and Electric Company (PG&E) substation and the St. Leo's and Sunol-Midtown residential neighborhoods.

The project site is approximately 1 mile south of the Norman Y. Mineta San José International Airport.

Development History of the Project Site

As stated in Section 3.3, *Cultural Resources and Tribal Cultural Resources*, in the late 19th and early 20th centuries, the project site was occupied by small cottages abutting industrial development, including a gas works, manufacturers of agricultural and processing equipment, fruit processing facilities, and lumberyards. By the mid-1930s, the Southern Pacific Railroad tracks were constructed in their current location along the western edge of the project site. After World War II, the project site transitioned from a residential and light industrial mixed-use area to primarily industrial as light industrial properties replaced many older residences. By the end of the 20th century, the SAP Center supplanted the former PG&E gasworks, buildings gave way to new parking lots, and construction of Guadalupe River Park began in the 1990s.

The Diridon Station Area has been the subject of multiple planning efforts, development projects, and transportation projects in its recent history. Past planning efforts at the project site include the previously approved San José Downtown Strategy 2000 Project, Diridon/Arena Strategic Development Plan, Midtown Specific Plan, Julian-Stockton Redevelopment Plan, and Delmas Park Neighborhood Improvement Plan.

Project Site Existing Land Uses

Much of the project site (approximately 40 percent) is currently occupied by surface parking lots serving the SAP Center, the Diridon Station, and private commercial businesses. Existing buildings occupy some of the parcels; the total built floor area is approximately 755,000 square feet, mostly in single-story structures.

Existing land uses on the project site are described from the northern area of the site (north of West Santa Clara Street) to the southern area (south of Park Avenue). As shown on **Figure 3.9-1**, the project site’s northern area contains a variety of light and heavy industrial uses: a food wholesale warehouse, one occupied residential property, surface parking lots serving Diridon Station and the SAP Center, and the SAP Center. In the central area of the project site, between West Santa Clara Street and Park Avenue, surface parking lots serve Diridon Station and the SAP Center. Adjacent to the surface parking lots south of the SAP Center, there are a variety of light industrial, commercial, and food-related uses, a church, and a PG&E substation. In the southern area of the project site (south of Park Avenue), existing uses include a San José Fire Department training facility, retail, and vacant properties. Refer to Chapter 2, *Project Description*, for additional detail regarding existing uses on the project site.

Project Site Existing Land Use Designations

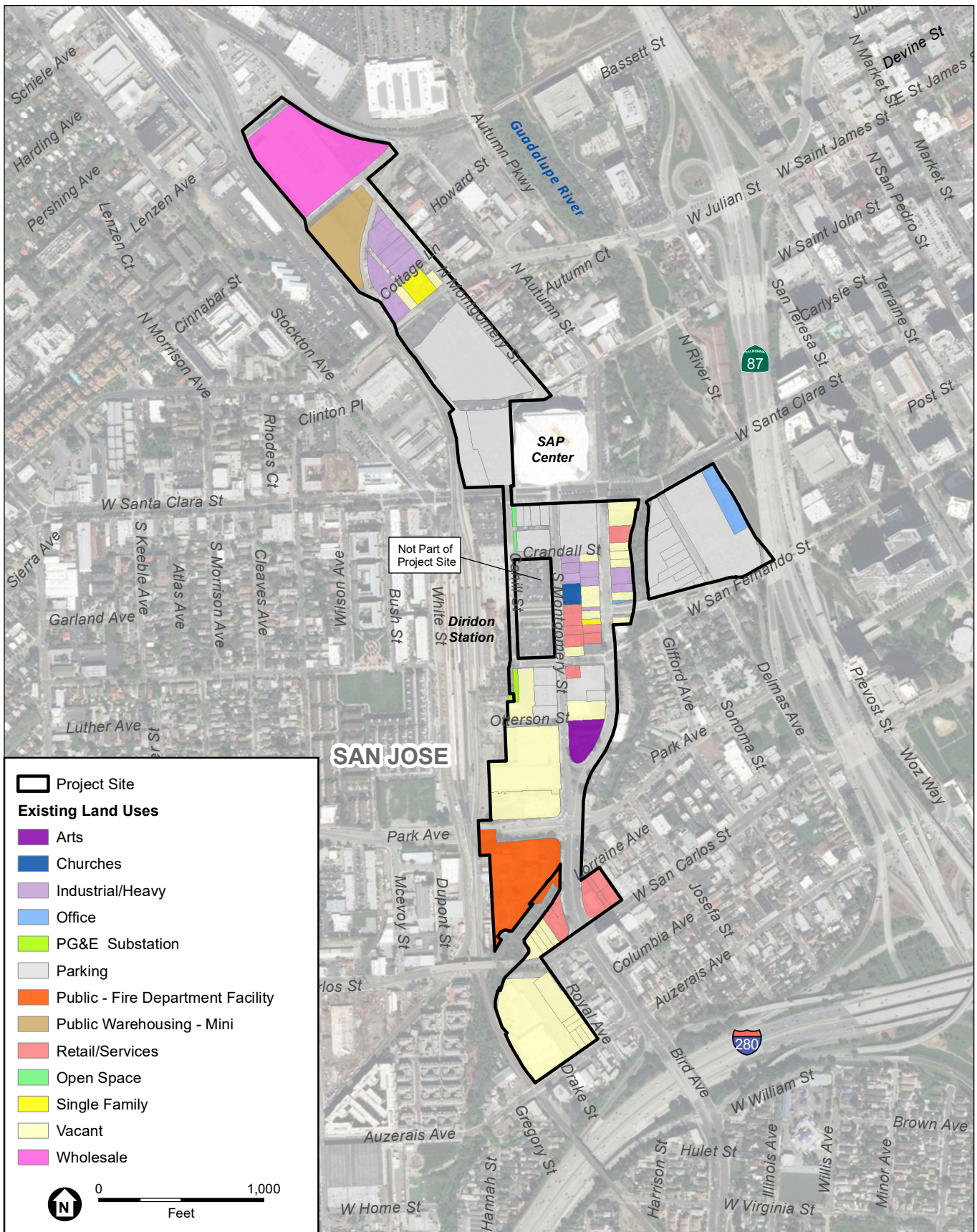
The entire project site is 81 acres and encompasses approximately 100 separate parcels. **Figure 3.9-2** shows the project site’s General Plan land use designations. **Table 3.9-1** summarizes these land use designations, and these are described in more detail in Chapter 2, *Project Description*.

**TABLE 3.9-1
 EXISTING LAND USE DESIGNATIONS FOR THE PROJECT SITE
 IN THE ENVISION SAN JOSÉ 2040 GENERAL PLAN**

Land Use	Acres
Commercial Downtown	18.3
Transit Employment Center	14.7
Public/Quasi-Public	10.8
Downtown	6.4
Combined Industrial/Commercial	6.9
Open Space, Parklands and Habitat	6.8

SOURCE: San José data download, available at <https://www.sanjoseca.gov/your-government/departments-offices/public-works/resources/gis-data-downloads>. Accessed September 9, 2019.

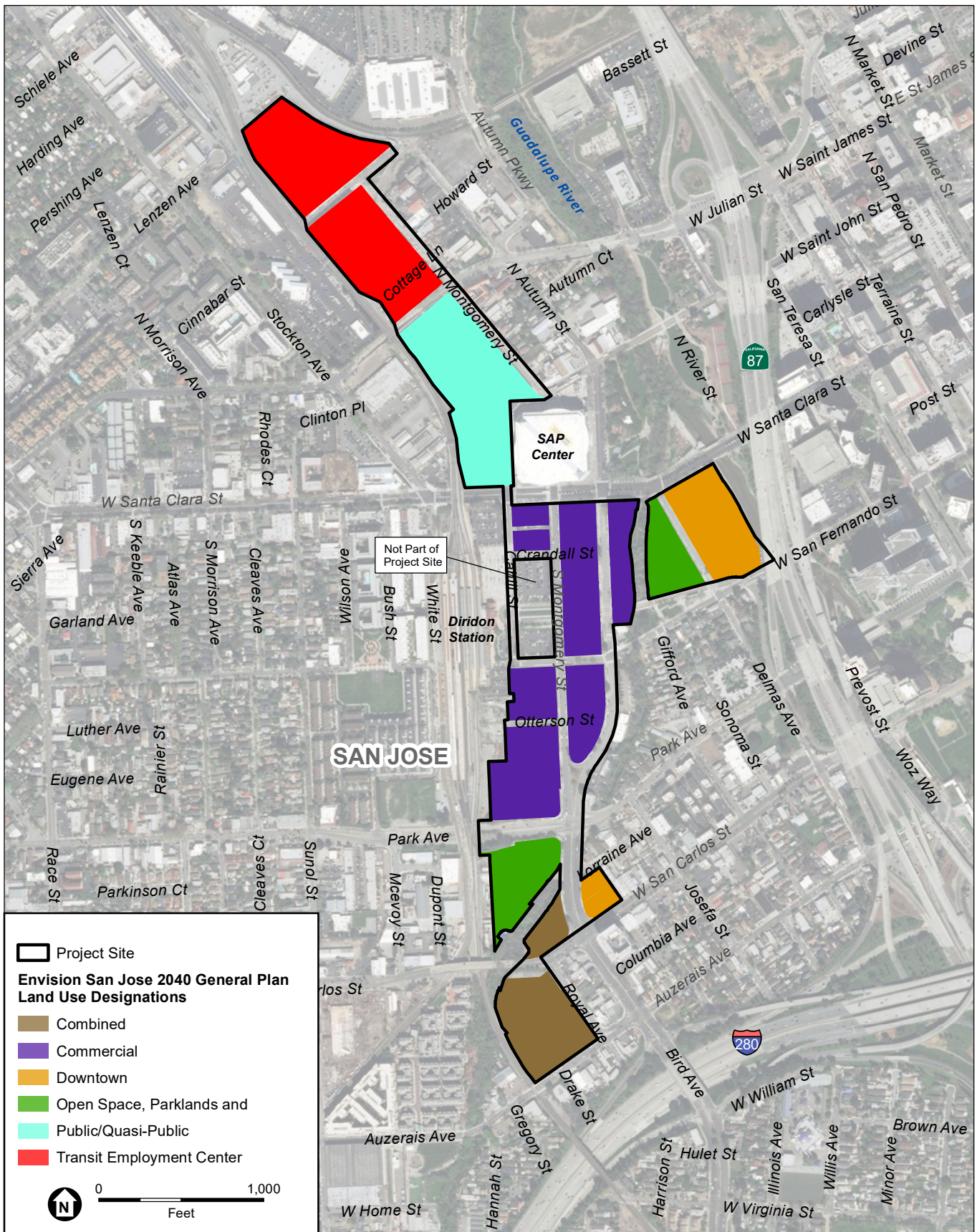
As shown in Table 3.9-1, more than half of the site (42 acres) is currently included in one of three designations: Commercial Downtown (18.3 acres), Transit Employment Center (14.7 acres), and Public/Quasi-Public (10.8 acres). Approximately 6 acres are designated Downtown, 6.9 acres are designated Combined Industrial/Commercial, and 6.8 acres are designated Open Space, Parklands, and Habitat.



SOURCES: Esri, 2019, City of San Jose, 2019, ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.9-1
Existing Land Uses



SOURCES: Esri, 2019, City of San Jose, 2019, ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.9-2
Envision San Jose 2040 General Plan Land Use Designations

Commercial Downtown

The Commercial Downtown District includes office, hotel, retail, service, and entertainment uses consistent with those supported by the Downtown designation. Residential uses are not permitted in the Commercial Downtown designation. This district calls for high-intensity commercial uses.

Transit Employment Center

This designation applies to areas planned for intensive job growth because of their high degree of transit accessibility and infrastructure connections. All Transit Employment Center–designated areas fall within identified Growth Areas.

Public/Quasi-Public

This designation is used for public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports.

Downtown

The Downtown designation includes office, retail, service, residential, and entertainment uses in the Downtown area. Development in this designation is intended to support pedestrian and bicycle circulation and increase transit ridership.

Combined Industrial/Commercial

This designation allows flexibility for the development of commercial and industrial uses, including hospitals and private community gathering facilities.

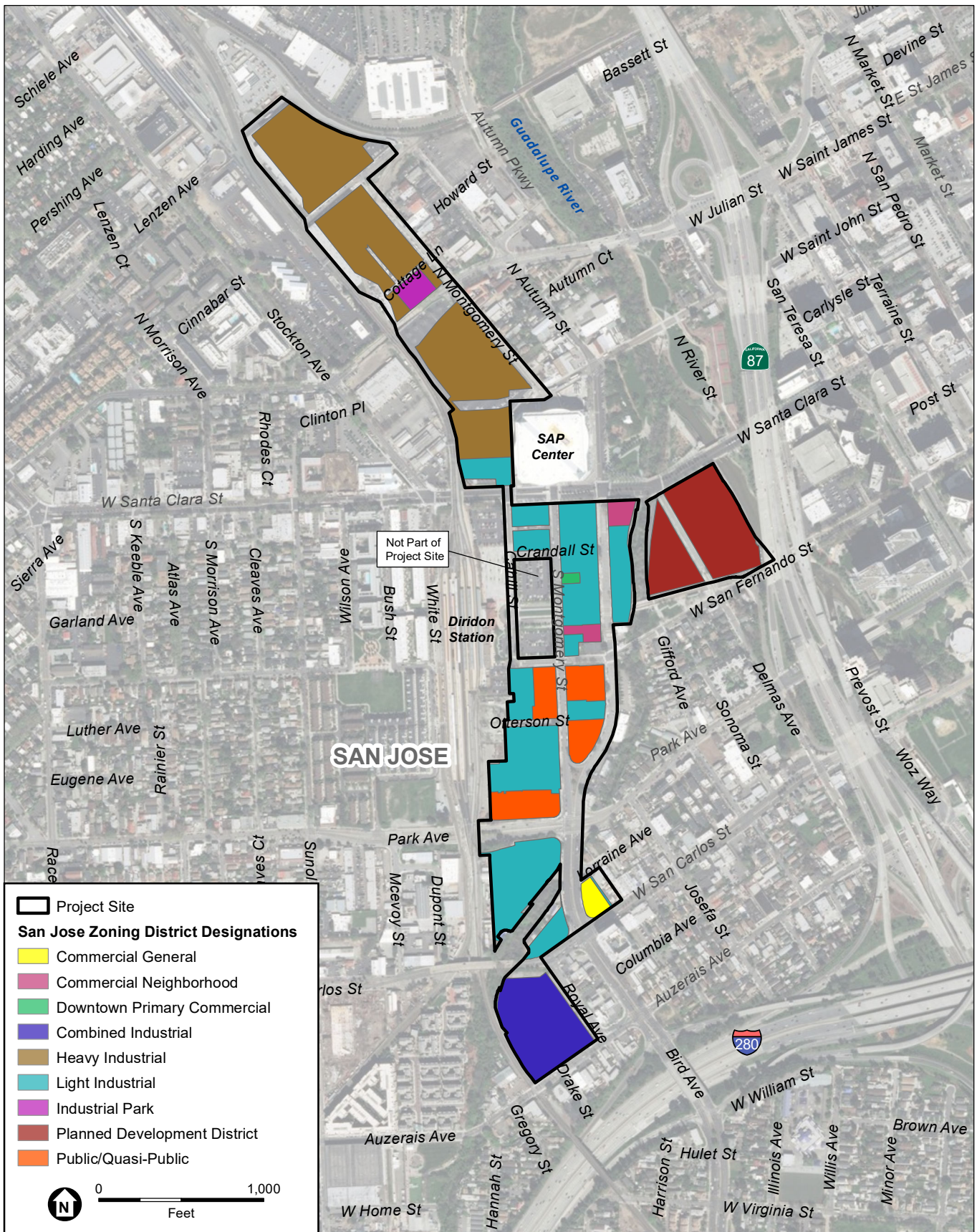
Open Space, Parklands and Habitat

This designation allows publicly or privately owned areas for low-intensity uses. Typical uses in this designation include open space, parks, recreation areas, trails, habitat buffers, nature preserves, and other permanent open space areas. This designation allows limited buildings or structures, but calls for the majority of the land area in this designation to be maintained as open space.

Existing Zoning

As shown on **Figure 3.9-3** and summarized in **Table 3.9-2**, the project site lies within the following zoning districts within the project site, from north to south: Heavy Industrial, Industrial Park, Light Industrial, Downtown Primary Commercial, Commercial Neighborhood, Planned Development, Public/Quasi-Public, Commercial General, and Combined Industrial/Commercial. A majority of the site is zoned either Heavy Industrial (18.4 acres) or Light Industrial (17.7 acres).

It is worth noting that the existing zoning for a majority of the site is not consistent with the General Plan designation. For example, SAP Center Lots A, B, and C are designated Public/Quasi-Public in the General Plan, but have a zoning designation of Heavy Industrial. Similarly, the San José Fire Department training center in the southern area of the project site is designated as Open Space in the General Plan, but has a Light Industrial zoning designation.



SOURCES: Esri, 2019, City of San Jose, 2019, ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.9-3
San Jose Zoning District Designations

**TABLE 3.9-2
 EXISTING ZONING DISTRICTS FOR THE PROJECT SITE**

Land Use	Acres
Combined Industrial/Commercial	5.4
Commercial General	0.6
Commercial Neighborhood	0.9
Downtown Primary Commercial	0.2
Heavy Industrial	18.4
Industrial Park	0.7
Light Industrial	17.7
Planned Development	7.6
Public/Quasi-Public	4.7

SOURCE: San José data download, available at <https://www.sanjoseca.gov/your-government/departments-offices/public-works/resources/gis-data-downloads>, Accessed January 6, 2020d.

Industrial Zoning Districts

The Combined Industrial/Commercial Zoning District is intended for commercial or industrial uses, or a compatible mixture of these uses. The Industrial Park zoning designation is a designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. The Light Industrial district is also intended for industrial uses but excludes uses with unmitigated hazardous or nuisance effects. The Heavy Industrial Zoning District is less restrictive than the Light Industrial Zoning District and is intended for industrial uses with nuisance or hazardous characteristics that are best segregated from other uses for reasons of health, safety, environmental effects, or general welfare. Examples of typical Light Industrial uses are warehousing, wholesaling, and light manufacturing, while examples of Heavy Industrial uses include extractive and primary processing industries.

Commercial Zoning Districts

The Downtown Primary Commercial Zoning District allows a wide variety of uses, including commercial, multi-family residential, and institutional. The Commercial Neighborhood Zoning District is intended to provide for neighborhood-serving commercial uses. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments. The Commercial General Zoning District allows for a full range of retail and commercial uses with a local or regional market, including malls.

Planned Development Zoning District

The City’s Municipal Code requires that a Planned Development Zoning District be combined with an existing base zoning district. A Planned Development Zoning District is effectuated by approval of a valid Planned Development Permit in compliance with the Planned Development Zoning District and General Development Plan. Development of property can occur only pursuant to an effective Planned Development Permit, or alternatively, prior to approval of a Planned Development Permit such property may be developed in accordance with the

requirements of the base zoning district. A Planned Development Zoning District allows any use or combination of uses provided for in the accompanying Planned Development Permit that is approved by the City. The City's approving bodies evaluate future projects in Planned Development Zoning Districts against the regulations in the Planned Development Zoning District, the adopted General Development Plan, and adopted design standards and guidelines (if any). For additional information regarding the project's Planned Development Zoning District and Design Standards and Guidelines, refer to Chapter 2, *Project Description*. The proposed Design Standards and Guidelines (Downtown West Design Standards and Guidelines) is included in Appendix M.

Shadow

Some publicly accessible open spaces and recreation facilities located nearby would have the potential to be affected by the proposed project. The following major Downtown open spaces were identified in the Downtown Strategy 2040 EIR as being particularly sensitive to shadow:

- **St. James Park**, a two-city-block public park encompassing 6.8 acres, located between North First and Third Streets and East St. John and St. James Streets. St. James Park was designated a San José Historic Landmark District in 1984.⁸
- **Plaza of Palms (also referred to as Circle of Palms Plaza)** is a group of palm trees encircling the California State Seal and is the site of California's first state capitol (1849–1851). The Plaza of Palms is located on Market Street near Plaza de César Chávez in Downtown San José.⁹
- **Plaza de César Chávez** is a 2.3-acre park in Downtown San José. This park is across South Market Street from the Plaza of Palms and contains grass lawns, paths, a fountain, and an amphitheater.
- **Paseo de San Antonio** is a pedestrian walkway between San José State University and Plaza de César Chávez.
- **Guadalupe River Park** is a multi-use linear park that surrounds the Guadalupe River in Downtown San José. The park has both designed and natural spaces, from plazas to park-like strolling paths to natural riparian habitat. The network of paths, called the River Walk, connects to other local and regional trail systems. In addition, the Guadalupe River Park is a Core Trail System in the city's trail network, and is designated as part of the National Recreation Trail.
- **McEnergy Park** is a 1.3-acre park on the south side of San Fernando Street, east of the Guadalupe River, that contains two children's water play features and two playgrounds.

⁸ Archives & Architecture LLC, *St. James Park Historical Evaluation*, 2016. Available at <https://www.sanjoseca.gov/home/showdocument?id=9563>. Accessed September 23, 2019.

⁹ City of San José, *San José History*, 2019. Available at <https://www.sanjoseca.gov/index.aspx?NID=126>. Accessed September 23, 2019.

3.9.2 Regulatory Framework

Federal

14 CFR Part 77—Safe, Efficient Use, and Preservation of the Navigable Airspace

The Federal Aviation Administration (FAA) is tasked with managing the national airspace. The FAA has promulgated regulations at Code of Federal Regulations (CFR) Title 14, Part 77 (Part 77), to preserve the navigability of the nation's airspace and maintain its safe and efficient use. The Part 77 regulations establish requirements for notifying the FAA of certain types of proposed construction or alteration of already existing structures. In addition, Part 77 identifies the standards used to determine obstructions to air navigation, and the process for conducting aeronautical studies to identify obstructions to air navigation and their effect on airspace.

Under 14 CFR Part 77.9, the FAA requires that it be notified of certain types of construction. This includes any construction of a new structure or alteration of an existing structure that is more than 200 feet above ground level where it is located, or that would exceed certain imaginary surfaces extending outward and upward from an airport's runways.¹⁰ The FAA is notified by submitting Form FAA 7460-1, Notice of Proposed Construction or Alteration, at least 45 days before the beginning of construction.¹¹

In response to the submittal of Form 7460-1, the FAA will prepare an aeronautical study to identify whether the proposed construction or alteration would be considered an obstruction to air navigation. Obstructions in airspace are presumed to be hazards to air navigation unless the aeronautical study concludes otherwise. The standards for determining obstructions in airspace are established in 14 CFR Part 77.17.

Upon completion of the aeronautical study, the FAA will either issue a Determination of No Hazard to Air Navigation or a Determination of Hazard to Air Navigation. A Determination of No Hazard to Air Navigation may include certain additional information, such as supplemental notice requirements or recommendations for marking and lighting the structure consistent with guidance in FAA Advisory Circular 70/7460-1L Change 2, Obstruction Marking and Lighting. A Determination of Hazard to Air Navigation indicates that a structure would have a substantial impact on air navigation. Part 77 also includes provisions for petitioning the FAA for discretionary review of a project. Section 3.7, *Hazards and Hazardous Materials*, contains a discussion of safety hazards related to airports.

¹⁰ The notification requirement includes both permanent structures and temporary structures such as tower cranes used in construction.

¹¹ Federal Aviation Administration, Form FAA 7460-1, *Notice of Proposed Construction or Alteration*, Section 77.9, Construction or Alteration Requiring Notice, 2017. Available at https://www.faa.gov/documentLibrary/media/Form/FAA_Form_7460-1_042020.pdf. Accessed September 2018.

State

Sustainable Communities and Climate Protection Act of 2008

Senate Bill (SB) 375 (Chapter 728, Statutes of 2008), the Sustainable Communities and Climate Protection Act, directs the California Air Resources Board to set regional targets for reducing greenhouse gas (GHG) emissions. The law establishes a “bottom up” approach to ensure that cities and counties are involved in the development of regional plans to achieve those targets.

SB 375 builds on the existing regional planning framework to tie together the regional allocation of housing needs and regional transportation planning in an effort to reduce GHG emissions from motor vehicle trips. Further, SB 375 established CEQA streamlining and exemptions for projects found to be consistent with the land use assumptions and other relevant policies of an adopted Sustainable Communities Strategy. Those exemptions and streamlining regulations are reflected in CEQA Guidelines Sections 15064.4 and 15183.5. For additional discussion of SB 375, including consistency of the proposed project with SB 375, refer to Section 3.6, *Greenhouse Gas Emissions*.

California State Aeronautics Act

The California Department of Transportation (Caltrans) Division of Aeronautics is responsible for administering much of the California State Aeronautics Act (Public Utilities Code Section 21001 et seq.). The State Aeronautics Act requires counties, with certain exceptions, to form airport land use commissions (ALUCs) (Public Utilities Code Section 21670(b)). The purpose of an ALUC is to conduct airport land use compatibility planning and to prevent the creation of new noise and safety problems in areas surrounding airports.

One of the primary responsibilities of ALUCs is to prepare airport land use compatibility plans (ALUCPs). The State Aeronautics Act directs the Caltrans Division of Aeronautics to provide guidance for ALUCs in preparing ALUCPs by publishing the Caltrans *California Airport Land Use Planning Handbook* (Caltrans Handbook).¹² The Caltrans Handbook was last updated in October 2011.

The Caltrans Handbook is intended to provide information on compatible land use planning to ALUCs, their staff, airport proprietors, cities, counties, consultants, and the public; identify the requirements and procedures for preparing effective compatibility planning documents; and define exceptions where applicable.¹³ The Caltrans Handbook is to be used by all ALUCs responsible for providing compatible land use planning near each existing and new public-use or military airport within their jurisdictions. Although the Caltrans Handbook provides guidance for complying with baseline safety and compatibility requirements, ALUCs may choose to be more restrictive based on local conditions.

Public Resources Code Section 21096 states that if a lead agency prepares an EIR for a project situated within ALUCP boundaries, the Caltrans Handbook is to be used as a technical resource

¹² California Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011.

¹³ California Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, p. vii.

to assist in preparation of the EIR to the extent that the EIR analyzes airport-related safety hazards and noise problems.

Regional

Plan Bay Area 2040

SB 375 requires all metropolitan regions in California to complete a sustainable communities strategy (SCS) as part of a regional transportation plan. In the Bay Area, the MTC and ABAG are jointly responsible for developing and adopting an SCS that integrates transportation, land use, and housing to meet GHG reduction targets set by the California Air Resources Board.

Plan Bay Area 2040, adopted in 2017, serves as the SCS for the Bay Area, in accordance with SB 375. A core household and employment growth strategy of Plan Bay Area is “focused growth” in existing communities along the existing transportation network. Key to implementing this focused growth strategy are Priority Development Areas (PDAs), as recommended and approved by local governments. As defined by the plan, PDAs are areas where new development will support the needs of residents and workers in a pedestrian-friendly environment served by transit. Plan Bay Area also recommends increasing non-auto travel mode share and reducing vehicle miles traveled per capita and per employee by promoting transit-oriented development, transit improvements, and active transportation modes such as walking and bicycling. From fall 2019 to summer 2020, ABAG and the MTC are developing the blueprint for *Plan Bay Area 2050*. *Plan Bay Area 2050* is anticipated to be adopted by both agencies in June 2021.

The central portion of the project site, between Julian Street on the north and Park Avenue on the south, is located within the “San José: Greater Downtown” PDA. The remaining portions of the project site are located within the “Downtown Frame” PDA. The project site is entirely located in these two PDAs, meaning that the entire project site is within an existing community, within one-half mile of frequent transit, and in an area planned for future housing and job growth by the City and the regional agencies.

Comprehensive Land Use Plan for the San José International Airport

The Santa Clara County ALUC is a seven-member commission consisting of two members representing incorporated cities in Santa Clara County, two members representing Santa Clara County (County), two members having expertise in aviation, and one member representing the general public.¹⁴ The Santa Clara County ALUC develops CLUPs¹⁵ for the county’s airports and assists local agencies in ensuring compatible land uses near local airports. The ALUC reviews proposed development, land use plans, regulations, and other actions of local agencies and airport

¹⁴ Santa Clara County Airport Land Use Commission, *Bylaws of the Airport Land Use Commission of Santa Clara County*, adopted November 18, 2015. Available at https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_ByLaws.pdf. Accessed October 1, 2019.

¹⁵ As of the 2011 update to the Caltrans Handbook, CLUPs are now referred to as airport land use compatibility plans. The CLUPs for Santa Clara County’s airports, including Norman Y. Mineta San José International Airport, were prepared before the 2011 Caltrans Handbook update and relied on the 2002 Caltrans Handbook for guidance.

operators within the airport influence areas (AIAs) for the County's airports.¹⁶ The AIAs represent the geographical extent of the ALUC's authority.

Development of the Comprehensive Land Use Plan

The project site is approximately 1 mile south of the Norman Y. Mineta San José International Airport (SJC or Airport). The project site is located in areas covered by the Part 77 imaginary airspace surfaces for SJC, and portions of the site are located within the community noise equivalent level (CNEL) contour (described later in this subsection). The project site is located outside the safety restriction area identified in the CLUP. The CLUPs have 20-year planning horizons and can be amended once every calendar year. The CLUP for SJC was adopted in May 2011 and last amended in November 2016.

The Santa Clara County ALUC developed the CLUP for SJC to ensure the general welfare of inhabitants in the AIA, to protect occupants of aircraft operating in the Airport vicinity, and to ensure that new land uses within the AIA are compatible with continued operation of the Airport. This is achieved through land use policies intended “to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.”¹⁷ Local agencies located within the AIA must make their land use plans consistent with the CLUP or take special steps to overrule it. The overrule process requires a two-thirds vote of the local agency's governing body, supported by specific findings.¹⁸

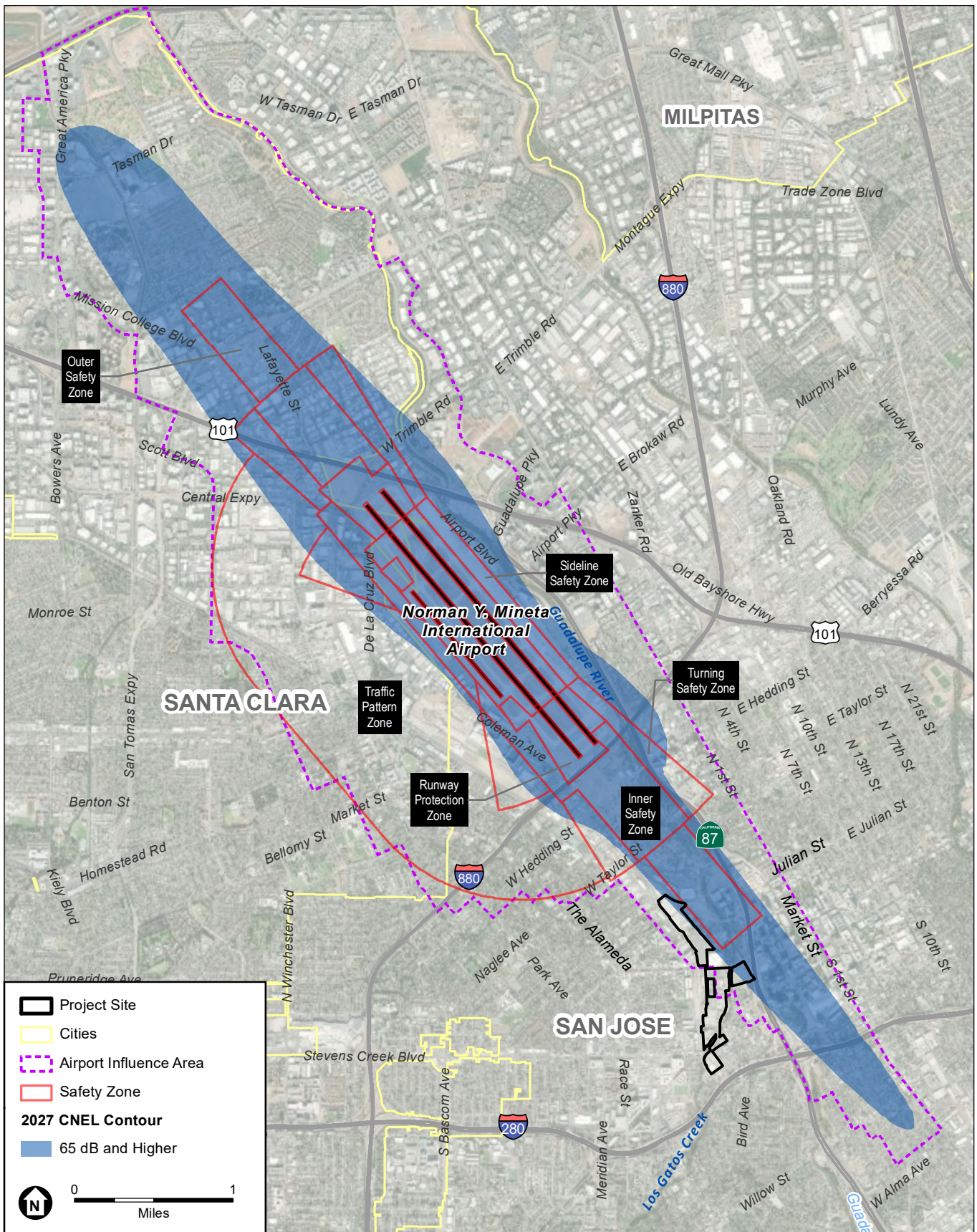
Noise Restriction, Height Restriction, Safety Restriction, and Overflight Restriction Areas

The SJC CLUP provides applicable policies with regard to Noise Restriction, Height Restriction, Safety Restriction, and Overflight Restriction Areas around the Airport. The AIA for SJC represents a composite of these areas and is shown on **Figure 3.9-4**.

¹⁶ Santa Clara County Airport Land Use Commission, *Norman Y. Mineta San José International Airport: Comprehensive Land Use Plan Santa Clara County*, prepared by Walter B. Windus, PE, adopted May 25, 2011 (amended 2016). Available at https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed September 12, 2019.

¹⁷ Santa Clara County Airport Land Use Commission, *Norman Y. Mineta San José International Airport: Comprehensive Land Use Plan Santa Clara County*, prepared by Walter B. Windus, PE, adopted May 25, 2011 (amended 2016). Available at https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed September 12, 2019, p. 1-1.

¹⁸ Santa Clara County Airport Land Use Commission, *Norman Y. Mineta San José International Airport: Comprehensive Land Use Plan Santa Clara County*, prepared by Walter B. Windus, PE, adopted May 25, 2011 (amended 2016). Available at https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed September 12, 2019, p. 5-1.



SOURCES: Esri, 2019, Santa Clara County Airport Land Use Commission, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.9-4
 San Jose international Airport Comprehensive Land Use Plan
 Airport Influence Area and Safety and Noise Compatibility Layers

The *Noise Restriction Area* is defined by CNEL contours of 65 decibels (dB), 70 dB, and 75 dB and higher (refer to Figure 3.9-4 for the CNEL 65 dB noise contour, the only noise contour that overlaps the project site). The CNEL contours were produced using the FAA's Integrated Noise Model Version 6.0c and reflect forecasted 2027 aircraft operations at SJC, based on the forecast prepared for the 2007 San José International Airport Master Plan Update.¹⁹ The noise policies in the CLUP apply in areas located within the CNEL contours. The policies include criteria for determining the acceptability of specific land uses based on exposure to the CNEL in bands of 5 dB (i.e., CNEL 55–60 dB, 60–65 dB, 65–70 dB, 70–75 dB, 75–80 dB, and 80–85 dB). Land use is defined as generally acceptable, conditionally acceptable, generally unacceptable, or unacceptable based on the CNEL contour in which it is located.

The *Height Restriction Area* represents height restrictions in areas covered by imaginary airspace surfaces at and around the Airport, as defined by criteria promulgated in 14 CFR Part 77. Development of the height restriction policies also considered height restrictions associated with one-engine-inoperative minimum clearance surfaces, as defined by performance criteria established in 14 CFR Part 25.121.²⁰ The FAA has no authority over local land use; therefore, the height restriction policies provide a nexus between federal regulations and local land use planning.

The *Safety Restriction Area* comprises six safety zones developed based on guidance provided in the 2002 Caltrans Handbook (refer to Figure 3.9-4). The safety zones represent areas of progressive risk for aircraft accidents. The safety policies in the CLUP apply in areas located within the safety zones. Like the noise policies, the safety policies include criteria determining the acceptability of specific land uses based on the safety zone. The compatibility criteria limit maximum population density and include requirements for maintaining various percentages of open space based on safety zone. As indicated above, the project site is outside the safety restriction area identified in the CLUP.

Finally, the *Overflight Restriction Area* covers all areas within the AIA. Aircraft overflight policies address sensitivity to aircraft overflights beyond the noise contours. The overflight policies require avigation easements for certain types of projects and apply state law requiring disclosure of a property's location within an AIA as part of the sale of residential real estate.²¹

Approximately 40 acres of the northern portion of the project site are located within the AIA. The proposed General Plan Amendment and rezoning must be submitted to the ALUC to be reviewed for consistency with the CLUP. For additional discussion of the Santa Clara County CLUP,

¹⁹ The noise contour in the CLUP depicts 2027 conditions based on information from the 2007 Airport Master Plan, the master plan in effect at the time the CLUP was produced. The Airport Master Plan was last updated in April 2020 and the CLUP has not been updated to reflect changes in the 2020 Airport Master Plan. Policy N-3 in the CLUP states that noise impacts shall be evaluated according to the 2027 noise contour (see Figure 5 in the CLUP). Accordingly, the 2027 contour defines the Noise Restriction Area for purposes of applying CLUP policies. See Figure 3.10-5 for the full 2027 noise contours. For informational purposes, Figure 3.10-6 also provides the noise contours as shown in the 2020 Airport Master Plan reflecting the 2037 forecast.

²⁰ On March 12, 2019, the City of San José City Council accepted the completed Downtown Airspace and Development Capacity Study, selecting Scenario 4, which would affirm the City's development policy to use FAA Terminal Instrument Procedures (TERPS) surfaces in lieu of the One-Engine Inoperative (OEI) surfaces to determine maximum building heights in the Downtown Core and Diridon Station planning areas.

²¹ An avigation [correct spelling] easement grants the right of overflight in the airspace above or near an affected property.

including consistency with policies related to noise and safety, refer to Section 3.7, *Hazards and Hazardous Materials*, in *Wildfire*, and Section 3.10, *Noise and Vibration*.

Applicable Policies

The following policies from the Santa Clara County CLUP are applicable to the General Plan Amendment and Rezoning:

General Policies

Policy G-4: Local jurisdictions should encourage the conversion of land uses that are currently incompatible with this CLUP to uses that are compatible, where feasible.

Policy G-5: Where legally allowed, dedication of an aviation easement to the City of San José shall be required to be offered as a condition of approval on all projects located within an Airport Influence Area, other than reconstruction projects as defined in paragraph 4.3.7 [of the CLUP]. All such easements shall be similar to that shown as Exhibit 1 in Appendix A [to the CLUP].

Policy G-6: Any proposed uses that may cause a hazard to aircraft in flight are not permitted within the AIA. Such uses include electrical interference, high intensity lighting, attraction of birds (certain agricultural uses, sanitary landfills), and activities that may produce smoke, dust, or glare. This policy requires the height at maturity of newly planted trees to be considered to avoid future penetration of the FAA FAR [Federal Aviation Regulations] Part 77 Surfaces.

Policy G-7: All new exterior lighting or large video displays within the AIA shall be designed so as to create no interference with aircraft operations. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots.

Noise Policies

Policy N-2: The Noise Compatibility Policies presented in the County's CLUP shall be used to determine if a specific land use is consistent with this CLUP.

Policy N-4: No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed use residential project or a multi-unit residential project. (Sound wall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.)

Policy N-5: All property owners within the Airport Influence Area who rent or lease their property for residential use shall include in their rental/lease agreement with the tenant, a statement advising that they (the tenants) are living within a high noise area and the exterior noise level is predicted to be greater than 65 dB CNEL in a manner that is consistent with current state law including AB 2776 [Assembly Bill 2776] (2002).²²

²² AB 2776 was signed into law in September 2002 and became effective on January 1, 2004. This statute states that during real estate transfers, the residential property purchaser must be informed if the property is in an Airport Influence Area and must be informed of the potential impacts of the associated airport.

Policy N-6: Noise level compatibility standards for other types of land uses shall be applied in the same manner as the above residential noise level criteria. Table 4-1 [in the CLUP] presents acceptable noise levels for other land uses in the vicinity of the Airport.

Height Compatibility Policies

Policy H-1: Any structure or object that penetrates the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, (FAR Part 77) surfaces is presumed to be a hazard to air navigation and will be considered an incompatible land use, except in the following circumstance. If the structure or object is above the FAR Part 77 surface, the proponent may submit the project data to the FAA for evaluation and air navigation hazard determination, in which case the FAA's determination shall prevail.

Policy H-2: Any project that may exceed a FAR Part 77 surface must notify the FAA as required by FAR Part 77, Subpart B on FAA Form 7460-1, Notice of Proposed Construction or Alteration. (Notification to the FAA under FAR Part 77, Subpart B, is required even for certain proposed construction that does not exceed the height limits allowed by Subpart C of the FARs).

Policy T-1: The applicant for any proposed project anywhere in the County for construction or alteration of a structure (including antennas) higher than 200 feet above ground level shall submit to the FAA a completed copy of FAA Form 7460-1, Notice of Proposed Construction or Alteration. A copy of the submitted form shall be submitted to the Santa Clara County ALUC as well as a copy of the FAA's response to this form.

Policy T-2: Any proposed project anywhere in the County for construction or alteration of a structure (including antennas) higher than 200 feet above ground level shall comply with FAR 77.13(a)(1) and shall be determined inconsistent if deemed to be a hazard by the FAA or if the ALUC determines that the project has any impact on normal aircraft operations or would increase the risk to aircraft operations.

Overflight Policies

Policy O-1: All new projects within the AIA that are subject to discretionary review and approval shall be required to dedicate in compliance with state law, an aviation easement to the City of San José. The aviation easement shall be similar to that shown as Exhibit 1 in Appendix A.

Other Policies

Policy M-1: Modifications (defined as the modification of approvals and unbuilt development that does not change the intensity of development) shall be transmitted to the ALUC staff for review and comment.

Santa Clara Valley Habitat Plan

The project site is located within the permit area for the *Santa Clara Valley Habitat Plan* (Habitat Plan). The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth on approximately 500,000 acres, or two-thirds of southern Santa Clara County. The Santa Clara Valley Habitat Agency implements the plan.

The Habitat Plan requires permits for project-specific impacts on Habitat Plan species and removes the need to obtain approvals from the wildlife agencies, and reduces the number and

scope of required biological studies. The Habitat Plan generally requires a riparian corridor setback of at least 100 feet from the riparian corridor or top of bank, whichever is more restrictive (although exceptions can be granted to reduce the required setback) for projects covered by the Habitat Plan, land cover fees to offset impacts on land cover types, wetland fees for projects affecting wetlands, and nitrogen deposition fees for any increases in vehicle trips.

Local

The project site has been the subject of multiple planning efforts over the years, including the previously approved General Plan and the Diridon Station Area Plan.

Envision San José 2040 General Plan

California law requires that every city and county prepare and adopt a long-range comprehensive general plan to guide future development and to identify the community's environmental, social, and economic goals. As stated in California Government Code Section 65302, "The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals."

The *Envision San José 2040 General Plan*, adopted in 2011 and last amended on March 16, 2020, plans for the future growth, development, and the provision of municipal services for San José. In particular, the General Plan plans for the development of up to 382,000 new jobs and 120,000 new dwelling units, supporting a population of approximately 1.3 million people by 2040.

Land use policies in the General Plan emphasize growing jobs and housing in areas served by transit and other City services to minimize the environmental and fiscal impacts of new growth. The General Plan identifies Growth Areas to accommodate nearly all of San José's planned housing and job growth capacity. The Growth Areas include the Downtown, North San José, and Specific Plan areas; employment land areas; regional transit stations; and new urban villages located at transit stations, along commercial corridors, or within walking distance of existing neighborhoods.

The project site is within the Diridon Station Area Plan and the Downtown Growth Area.

Land Use Diagram

The General Plan's land use diagram identifies locations, types, and intensities of employment, residential, and mixed-use growth throughout San José.

As shown on Figure 3.9-2, the project site's land use designations are as follows:

- Transit Employment Center
- Public/Quasi-Public
- Open Space, Parklands and Habitat
- Downtown
- Commercial Downtown
- Combined Industrial/Commercial

General Plan Policies

The General Plan policies are intended to identify Growth Areas and transform them into higher-density, mixed-use, urban districts, or “Urban Villages” that can accommodate employment and housing growth and reduce the environmental impacts of growth by promoting transit and walkability. The following policies pertaining to land use are relevant to the proposed project:

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.15: Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.

Policy CD-4.5: For new development in transition areas between identified growth areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.

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

Policy CD-5.9: To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City’s Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

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

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

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

Policy IE-1.5: Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within the Downtown, North San José, the Berryessa International Business Park and Edenvale.

Policy IE-1.6: Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART [Bay Area Rapid Transit] and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.

Policy IE-1.7: Advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California.

Policy FS-3.3: Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City’s fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City’s net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.

Policy FS-4.1: Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City’s long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.

Policy FS-4.7: Encourage transit-oriented development as a means to reduce costs for expansion and maintenance of our City’s street system, in addition to other benefits and consistent with the General Plan Transportation goals and policies.

Policy VN-1.7: Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.5: Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.

Policy CD-1.10: Promote shared parking arrangements between private uses and the provision of commonly accessible commercial or public parking facilities which can serve multiple users in lieu of providing individual off-street parking on a property-by-property basis. Consider in-lieu parking fees or other policy actions to support this goal.

Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.

1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
4. Locate retail and other active uses at the street level.
5. Create easily identifiable and accessible building entrances located on street frontages or paseos.
6. Accommodate the physical needs of elderly populations and persons with disabilities
7. Integrate existing or proposed transit stops into project designs.

Policy CD-2.4: Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.

Policy CD-2.11: Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.

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

Policy CD-3.5: Encourage shared and alternative parking arrangements and allow parking reductions when warranted by parking demand.

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

Policy PR-1.7: Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals and/or farmers markets as well as opportunities for passive and, where possible, active recreation.

Policy PR-1.8: Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents' needs are being met.

Policy PR-1.11: Develop an integrated parks system that connects new and existing large parks together through a network of interconnected trails and/or bike lanes/routes.

Policy LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

Policy LU-1.2: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Policy LU-1.3: Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Policy LU-1.5: Encourage developers of large commercial and industrial projects to identify and appropriately address the potential need generated by these projects for child care facilities or services. The provision of on-site child care may be considered for a single tenant building in industrial areas primarily for use by employees of the industrial facility. Do not locate off-site, freestanding child care facilities within industrial areas, except for those areas that have been designated for such uses.

Policy LU-1.6: With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.

Policy LU-1.7: Locate employee-intensive commercial and industrial uses within walking distance of transit stops. Encourage public transit providers to provide or increase services to areas with high concentrations of residents, workers, or visitors.

Policy LU-1.8: Collaborate with appropriate external agencies with land use authority or regulations in San José. Consider applicable Airport Land Use Commission, Santa Clara Valley Water District, Local Area Formation Commission, and other policies from outside agencies when reviewing new or expanded uses.

Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the *Envision San José 2040 General Plan*.

Policy LU-3.2: Support Downtown as a primary employment center in the region, especially for financial institutions, insurance companies, government offices, professional services,

information and communication technology companies, and businesses related to conventions.

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

Policy LU-3.8: Leverage Downtown’s urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

Policy LU-4.4: Allow limited industrial uses in commercially designated areas if such uses are of a scale, design, or intensity that creates less than significant negative impacts to surrounding uses.

Policy LU-5.1: In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

Policy LU-5.2: To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.

Policy LU-5.3: Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use / Transportation Diagram.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

Policy LU-5.5: Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.

Policy LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

Policy LU-5.8: Encourage outdoor cafes and other outdoor uses in appropriate commercial areas to create a vibrant public realm, maximize pedestrian activity, and capitalize on San José’s temperate climate.

Policy LU-6.2: Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues.

Policy LU-6.3: When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site.

Policy LU-9.1: Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas. Consistent with Transportation Policy TR-2.11, prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities, that do not provide through- and publicly-accessible bicycle and pedestrian connections.

Policy LU-9.2: Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.

Policy LU-10.2: Distribute higher residential densities throughout our city in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.

Policy LU-10.3: Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

Policy LU-10.5: Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

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

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

Policy TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.

Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.

Policy IP-1.7: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.

Policy IP-1.8: Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or pre zoning proposals.

Other General Plan actions and policies applicable to the proposed project are described in Section 3.1, *Air Quality* (see Table 3.1-4), Section 3.2, *Biological Resources* (see Table 3.2-3), Section 3.3, *Cultural Resources and Tribal Cultural Resources* (see Table 3.3-5), Section 3.4, *Energy* (see Subsection 3.4.2), Section 3.5, *Geology, Soils, and Paleontological Resources* (see Subsection 3.5.2), Section 3.6, *Greenhouse Gas Emissions* (see Table 3.6-12), Section 3.7, *Hazards and Hazardous Materials* (see Subsection 3.7.2), Section 3.8, *Hydrology and Water Quality* (see Subsection 3.8.2), Section 3.10, *Noise and Vibration* (see Subsection 3.10.2), Section 3.11, *Population and Housing* (see Subsection 3.11.2), Section 3.12, *Public Services and Recreation* (see Subsections 3.12.2, 3.12.5, 3.12.8, 3.12.11, and 3.12.14), Section 3.13, *Transportation* (see Table 3.13-2), and Section 3.14, *Utilities and Service Systems* (see Subsection 3.14.2, 3.14.5, 3.14.8, 3.14.11, and 3.14.14).

Diridon Station Area Plan

The majority of the project site is within the Diridon Station Area Plan.²³ The DSAP, approved by the City in 2014, establishes a vision for the Diridon Station Area in response to the planned extension of BART and high-speed rail service to San José. The purpose of the plan is to combine past and present plans into one vision to guide future development that takes full advantage of the high level of connectivity that the Diridon Station Area affords. The 2014 DSAP establishes maximum development capacities for residential, commercial, retail, and hotel uses.

The primary objectives of the DSAP relevant to the proposed project are:

- Establish a land use plan and policy framework that will guide future development and redevelopment toward land uses that support transit ridership and economic development and create a world-class cultural destination.
- Improve pedestrian, bicycle, motorized and transit connectivity between the station site and existing adjacent commercial and residential areas.
- Develop and implement urban design standards that promote walkable, livable, and business supportive environments within the Diridon Station Area.
- Provide a variety of commercial and mixed-use development opportunities, ranging from large-scale corporate or institutional sites to smaller infill development sites.
- Create a highly active and lively pedestrian and bicycle friendly environment with excellent connectivity to downtown destinations and regional transit.
- Expand Diridon Station to create a well-integrated center of architectural and functional significance.
- Ensure the continued vitality of the San José Arena, recognizing that the San José Arena is a major anchor for both Downtown San José and the Diridon Station area, and that sufficient parking and efficient access for San José Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the San José Arena's on-going success.

²³ Separate from the proposed project, the City is undertaking an update of the DSAP, as described in Chapter 2, *Project Description*. Among the revisions anticipated is a boundary change to the DSAP to include the entirety of the project site, among other locations. The project-specific DSAP Amendment will also address the boundary revision.

- Enhance the existing neighborhoods and add high-density residential-commercial mixed-use development within the study area and to act as a catalyst for similar developments in surrounding areas.
- Educate and inform the public about the area planning process and Transit-Oriented Development (TOD) concepts.
- Create a great place in the City of San José that is a local and regional destination.

As described in detail in Chapter 2, *Project Description*, and Section 3.11, *Population and Housing*, the City has initiated amendments to the DSAP in light of several changes in planning assumptions. The proposed project has separately initiated project-specific amendments for development of the project site and for consistency with the General Plan. However, neither the project-specific amendments nor the City-initiated DSAP amendments are expected to make major changes to the primary objectives of the DSAP.

Downtown Strategy 2040

The Downtown Strategy 2040 was adopted in December 2018, as amendments to the General Plan, and represents the City's most recent planning vision for the Downtown Growth Area, which encompasses the project site and the DSAP area.

The Downtown Strategy 2040 focuses on revitalizing Downtown San José by supporting higher density infill development and replacing underused properties. The strategy, which updated a prior strategy document, increased the total number of residential units Downtown to 14,360 and office uses to 14.2 million square feet, which is assumed to accommodate 58,500 jobs. Relevant objectives from the Downtown Strategy 2040 include:

- Continue to encourage ambitious job and housing growth capacity in Downtown. This growth capacity is important to achieve multiple City goals, including support for regional transit systems, correcting the City's jobs to housing imbalance, and for the development of Downtown as a regional job center, consistent with the 2040 General Plan, Downtown Strategy 2000.
- Allow additional residential development, consistent with the 2040 General Plan, to capitalize on the walkable, livable, and business supportive environments within the Downtown.
- Preserve the jobs sites (commercial, office, and hotel development) envisioned in the Downtown Strategy 2000 and 2040 General Plan.

The increased growth allowed by the Downtown Strategy 2040 applies to all areas in the Downtown Growth Area, which encompasses most of the DSAP area, including the entire project site. The Downtown Strategy 2040 did not, however, change the land use regulations and policies established in the DSAP. As described in Chapter 2, *Project Description*, and Section 3.11, *Population and Housing*, the City is proposing amendments to the DSAP in light of several changes in planning assumptions. In addition, the proposed project would initiate project-specific General Plan and DSAP amendments to reallocate growth to Downtown to accommodate the proposed project.

With respect to shadow, the Downtown Strategy 2040 established that development under the plan would have a significant shadow impact if any project were to result in a 10 percent or greater increase in the shadow cast onto one of the six Downtown open space areas described above, unless the project design could be revised to reduce the increase in shadow to less than 10 percent.

Other Plans

Los Gatos Creek Trail—Reach 5 Master Plan

This plan, adopted by the City in 2008, addresses the portion of the planned Los Gatos Creek Trail between Auzerais Avenue and Arena Green, north of W. Santa Clara Street. This segment of the planned trail is the final trail reach in the city to be developed. When complete, it will connect to Arena Green and the rest of Guadalupe River Park. The portion of the trail from Auzerais Avenue to just south of W. San Carlos Street has been constructed in connection with an adjacent residential project. However, the remainder of this trail reach remains unbuilt.

The Master Plan alignment calls for the trail to pass beneath an existing Caltrain bridge across Los Gatos Creek, just south of W. San Carlos Street, and beneath the W. San Carlos Street overpass. From there, the trail alignment ultimately meanders through the existing San José Fire Department training facility site (now part of the proposed Downtown West project site), assuming the relocation of that facility. From the S. Montgomery Street/Park Avenue intersection, the trail alignment follows the west bank of the creek to West San Fernando Street, then follows the S. Autumn Street sidewalk to W. Santa Clara Street, Arena Green, and Guadalupe River Park.

In connection with approved development of the site bounded by W. Santa Clara Street, the Guadalupe River, the light rail tracks, and Los Gatos Creek (also now part of the Downtown West project site), a segment of the trail is also planned along the east bank of Los Gatos Creek from the San Fernando light rail station north to W. Santa Clara Street and Arena Green.

Zoning Ordinance

The City's Zoning Ordinance is intended to promote and protect the public peace, health, safety, and general welfare. The purposes of the Zoning Ordinance are:

1. Guide, control, and regulate future growth and development in the city in a sound and orderly manner, and to promote achievement of the goals and purposes of the San José General Plan.
2. Protect the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the city.
3. Provide light, air, and privacy to property.
4. Preserve and provide open space and prevent overcrowding of the land.
5. Appropriately regulate the concentration of population.
6. Provide access to property and prevent undue interference with and hazards to traffic on public rights-of-way.
7. Prevent unwarranted deterioration of the environment and promote a balanced ecology.

Figure 3.9-3 shows the project site’s existing zoning districts. The project applicant proposes to rezone the entire site as a Planned Development Zoning District, which would allow implementation of site-specific development as set forth in the zoning district’s general development plan, one or more Planned Development Permits, associated design standards and guidelines, and subsequent design conformance process. This process and associated project approvals are described in Chapter 2, Section 2.4.2, *Proposed Changes to General Plan Land Use and Diridon Station Area Plan Designations*.

3.9.3 Impacts and Mitigation Measures

Significance Criteria

For the purposes of this EIR, a land use and planning impact would be significant if implementing the proposed project would:

- Physically divide an established community; or
- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

A shadow impact would be significant if implementing the proposed project would:

- Result in 10 percent or more of the area of any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnergy Park) being newly shaded by the project.

Approach to Analysis

Land Use

This section relies on the CEQA Initial Study Checklist questions relevant to land use and planning and evaluates whether the proposed project would physically divide an established community or cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

However, this section does not evaluate physical environmental impacts associated with compatibility or potential plan conflicts in detail. Instead, the various environmental resource evaluations elsewhere in this EIR chapter discuss the potential physical/environmental effects and potential incompatibilities that may be considered in the determination of physical environmental impacts. For example: Land uses that produce excessive noise, light, dust, odors, traffic, or hazardous emissions may be undesirable when they intrude on places used for residential activities (e.g., residences, parks). Thus, certain industrial or commercial uses—which can produce noise and odors—may not be considered compatible with residential, educational, or healthcare uses, unless buffers, landscaping, or screening could protect residents from health hazards or nuisances. Any such potential land use incompatibilities are addressed in the applicable environmental resource sections elsewhere in Chapter 3, *Environmental Setting, Impacts, and Mitigation* (e.g., Air Quality, Noise, Hazardous Materials, Transportation, and Cultural Resources), rather than in this section.

Similarly, the determination of a significant impact—which, by definition, must involve a physical change—is separate from the legal determination of plan consistency. Thus, the analysis in Impact LU-2 focuses on the proposed project’s potential for a substantial conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect, where the identified conflict would result in a significant environmental impact.

As described in Chapter 2, *Project Description*, the applicant is proposing site-specific Design Standards and Guidelines that would govern development on the project site. These enforceable standards and guidelines, a draft of which is provided in Appendix M, would be considered by the City as part of the Planned Development Permit application. The site-specific Design Standards and Guidelines would specify which of the City’s existing Downtown Design Guidelines would continue to apply to the project and which would be superseded or modified by the project’s site-specific Design Standards and Guidelines. The City’s approving bodies would evaluate future proposed buildings in the Planned Development Zoning District against the project’s adopted Design Standards and Guidelines to ensure conformity with applicable design guidelines and standards.

Shadow

To evaluate the shadow impacts of the proposed project, the project applicant’s planning consultant prepared a three-dimensional virtual model of the project. The model includes the project site, potentially affected Downtown open spaces that are particularly sensitive to shadow, and the surrounding urban environment.

The purpose of this analysis is to inform decision-makers of the potential effects of the proposed project’s shadow on existing public parks and publicly accessible open spaces, and to determine whether the proposed project would create a substantial amount of new shadow under the significance threshold adopted as part of the Downtown Strategy 2040.

The shadow model considers the proposed project at full buildout, assuming maximum potential building heights, except that for the existing small-scale buildings between South Autumn Street and Los Gatos Creek, the height controls specified in the Downtown West Design Standards and Guidelines (approximately one additional story) are assumed. Specific architectural designs for the buildings on the project site have not been developed, but will be required to conform to standards in the Downtown West Design Standards and Guidelines proposed for incorporation in the Planned Development Permit. The shadow analysis conservatively includes two assumptions for future buildout of the project:

- All project buildings would reach the maximum allowable height of 180 to 290 feet, as shown in Chapter 2, *Project Description*, Figure 2-5, *Existing and Proposed Zoning Districts*, based on review of the City’s 2018 analysis of heights that would be permitted pursuant to the FAA’s Terminal Instrument Procedures.
- All project buildings would cover the entire footprint of each block on the project site, as shown in Chapter 2, *Project Description*, Figure 2-6, *Existing Height Limits and Proposed Height Limits*.

The shadow model does not include required building setbacks at upper stories, and therefore, is a worst-case scenario.²⁴ The shadow consultant digitally projected building shadows onto the surrounding terrain, and the resulting graphics formed the basis for this analysis. Consistent with the notion that Downtown parks and open spaces are most heavily used during the midday hours, the analysis focuses on the period between 10 a.m. and 3 p.m. To bracket the range of potential impacts, the analysis was conducted for the summer solstice (June 21), winter solstice (December 21), and the spring and fall equinoxes (March 21/September 21), at 10 a.m., 12 noon, and 3 p.m.

Impact Analysis

Land Use and Planning

Impact LU-1: The proposed project would not physically divide an established community. (Less than Significant)

Under CEQA, physical division of an established community generally applies to projects, such as highway construction, that would create a barrier that would physically sever two or more connected parts of a community.²⁵ This CEQA criterion is not intended to apply to effects that may create a perceived barrier, such as increased traffic, or create a challenge to crossing a street, or other real or perceived inconveniences.

Most of the 81-acre project site is developed with a mix of low-intensity uses as described in Section 3.9.1, *Environmental Setting*, in an existing surrounding urbanized area that contains residential, commercial, entertainment, industrial, office, and parking uses. Many of the approximately 100 separate parcels are secured with fencing and do not permit public access, and the existing Diridon Station and railway track create a barrier for east-west movement across the project site. Thus, under existing conditions, many parcels on the project site do not allow for the connectivity of people in the existing community.

The design of the proposed project would not include physical barriers or obstacles to circulation that would restrict existing patterns of movement between the project site and the surrounding neighborhoods. In fact, the proposed project would include features designed to encourage and promote public access and vehicular and pedestrian circulation, where limited access exists today. Specifically, the project would enhance north-south connectivity across the length of the project site; provide adequate vehicular and pedestrian/bicycle access to the northern portion of the site; and include mid-block passages at several locations to facilitate pedestrian and bicycle access through the project site and break up the scale of larger blocks (refer to Chapter 2, *Project Description*, Figures 2-7, *Open Space Plan*, and 2-8, *Proposed Street Network Changes*).

The proposed project would also facilitate east-west connectivity across the site and to the surrounding neighborhoods through such improvements as a new footbridge over Los Gatos Creek south of West Santa Clara Street and a block-long extension of Post Street. The project

²⁴ Trees and landscaping are not included in the model. For the parks considered in this analysis, existing shading from trees and landscaping is described qualitatively.

²⁵ “We believe, however, that this guideline was intended to apply to projects, such as highway construction, that would constitute physical barriers dividing a community.” *Cathay Mortuary, Inc. v. San Francisco Planning Commission* (207 Cal. App. 3d 275), January 20, 1989.

would also include other improvements to the public realm such as enhanced local pedestrian circulation, and improved bicycling linkages to Downtown for residents and visitors to leverage new regional transit connectivity in the immediate vicinity (Caltrain, Altamont Corridor Express [ACE] trains, planned BART service, and, potentially, high-speed rail).

Street Vacations and Network Changes

The proposed project would extend portions of certain streets across the project site and would remove parts of other streets (refer to Chapter 2, *Project Description*, Figure 2-8). Notably, the proposed project would extend Cahill Street from its current terminus at West Santa Clara Street to North Montgomery Street in the north and from West San Fernando Street to Park Avenue in the south to enhance north-south connectivity throughout the length of the project site. As described in Section 2.7.1, *Changes to the Street Network*, the project would also make much smaller additions to the street network on West St. John Street, Post Street, and between Royal Avenue and Auzerais Street, and would also create several privately owned service and loading streets. The proposed project would remove a number of street segments within the project site, the most notable of which would be the closure of South Montgomery Street between West San Fernando Street and Park Avenue. The project would also remove smaller segments of Delmas Avenue, Cinnabar Street, Otterson Street. In particular, Delmas Avenue would be closed between West Santa Clara and West San Fernando Streets, with the southern portion to be reconfigured as a private street/driveway from West San Fernando Street.

Overall, the proposed project would result in the vacation of a number of street segments as described above and in more detail in Section 2.7.1, *Changes to the Street Network*; however, the project would extend and connect the other streets described above to improve connectivity throughout the project site and implement the off-site pedestrian and bicycle improvements described in Chapter 2, *Project Description*. As discussed above, the project includes other features and designs to encourage public access and promote vehicular and pedestrian circulation. For instance, the footbridge north of West Santa Clara Street would be widened and a new footbridge over Los Gatos Creek would be added. Therefore, implementing the proposed project would not physically divide an established community. This impact would be **less than significant**.

Mitigation: None required.

Impact LU-2: The proposed project would cause a significant environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (*Significant and Unavoidable*)

The criterion for determining significance with respect to a land use plan emphasizes conflicts with plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. This criterion recognizes that an inconsistency with an individual plan, policy, or regulation does not necessarily equate to a significant physical impact on the environment.

Applicable regional and local land use plans that regulate development on the project site include Plan Bay Area, the Santa Clara County CLUP, the Santa Clara Valley Habitat Plan, the General Plan, Downtown Strategy 2040, the DSAP, and the Zoning Ordinance.

Plan Bay Area 2040

Plan Bay Area integrates transportation, land use, and housing to meet GHG emissions reduction targets for the San Francisco Bay Area. With regard to land use, Plan Bay Area focuses growth and development in Priority Development Areas, which are served by public transit and have been identified as appropriate for additional, compact development.²⁶ The project site is located within the Downtown “Frame” and Greater Downtown PDAs.²⁷

The proposed project would develop a mix of primarily office and residential land uses. The project would also include smaller amounts of retail/restaurant and arts/cultural space, event/meeting space, maker spaces, space for non-profit organizations and small-format offices, and hotel uses, along with a network of open spaces and changes to vehicular and bicycle/pedestrian circulation. The proposed project’s substantial jobs and housing growth would be undertaken within two PDAs proposed by the City and included in Plan Bay Area. By doing so, the project would further the objectives set forth for PDAs in Plan Bay Area, which include locating new growth in an existing community, within one-half mile of frequent transit, and in an area planned for future housing and job growth. Thus, the project would implement and not conflict with *Plan Bay Area 2040*, including its Sustainable Communities Strategy goals of supporting sustainable growth through a more consolidated, compact development pattern that encourages new density and intensity in infill opportunity areas accessible to a multitude of transportation options, including transit. For this reason, the impact related to Plan Bay Area would be **less than significant**.

Comprehensive Land Use Plan for the San José International Airport

Policies G-4, G-5, G-6, G-7, N-2, N-4, N-5, N-6, H-1, H-2, T-1, T-2, O-1, and M-1 in the SJC CLUP are applicable to the portions of the project site located within the CLUP’s Airport Influence Area. (Those policies are described in Section 3.9.2, *Regulatory Framework*, under the heading *Comprehensive Land Use Plan for the San José International Airport*). The proposed project’s design takes into consideration the building height limits of 180–290 feet, as shown in Chapter 2, *Project Description*, Figure 2-5, based on the City’s 2018 analysis of Terminal Instrument Procedures (TERPS) surfaces and building heights.

Consistent with Policies G-6, G-7, H-1, H-2, T-1, and T-2 of the SJC CLUP, the proposed General Plan amendments and rezoning included with the proposed project would be consistent with CLUP policies pertaining to structure heights by requiring that proponents for all proposed developments subject to the requirements of 14 CFR Part 77, including proposed structures higher than 200 feet above ground level, submit Form 7460-1, *Notice of Proposed Construction or Alteration*, to the FAA. This would initiate preparation of an aeronautical study to determine whether specific development would include components that would obstruct airspace and

²⁶ Association of Bay Area Governments, *Plan Bay Area 2040*, Final, adopted July 26, 2017.

²⁷ Metropolitan Transportation Commission, Priority Development Areas, MTC Open Data Layer Library, 2018.

potentially operate as hazards to air navigation. In addition, consistent with Policies G-5 and O-1, the project applicant would dedicate an aviation easement to the City of San José.

As discussed in Section 3.10, *Noise and Vibration*, a portion of the project site designated for residential and hotel use is located within the 2027 65 dB CNEL contour. As stated in CLUP Policy N-4, no residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed use residential project or a multi-unit residential project.

Mitigation Measure NO-3, Exposure to Airport Noise, would require preparation of a noise reduction plan to ensure that residential buildings subject to such noise levels would be designed so that interior noise levels would not exceed 45 dBA. However, it is not possible to mitigate noise levels for any outdoor patios or outdoor activity areas because mitigation would essentially entail converting this outdoor space to indoor space, given that the source of aircraft noise is from aircraft flying above the residential receptors. Thus, this would represent a **significant and unavoidable** impact.

The State Aeronautics Act requires local agencies with jurisdiction over land in an AIA that propose to amend a general plan or specific plan, or to adopt or approve a zoning ordinance or building regulation, to submit the proposed action to the ALUC for a determination of consistency with the CLUP (Public Utilities Code Section 21676(b)). This requirement is reflected in CLUP Section 4.2.1, which assigns the ALUC the responsibility for reviewing all proposed amendments to determine whether they are consistent or inconsistent with the CLUP. The CLUP Safety Restriction Area overlaps a small area in the northern portion of the project site (Figure 3.9-4). Approximately 900 square feet of the project site is within the Outer Safety Zone. However, the area in question is too small to develop and would not be subject to CLUP Policies S-1 to S-8 related to population density, open space requirements, and land use. Therefore, there would be no obvious or substantial inconsistencies between the proposed project and the safety policies in the CLUP.

The ALUC makes a determination of whether a project is consistent with the CLUP when it reviews the General Plan and zoning amendments included in the project. If the ALUC finds that the project would be inconsistent with the CLUP policies, the city council may adopt a resolution by two-thirds majority vote (in the City of San José, eight affirmative votes) to override the ALUC determination, if it makes specific findings that the proposed action is consistent with the purposes of the enabling statute (refer to Public Utilities Code Section 21670(2)). Also refer to Section 3.7, *Hazards and Hazardous Materials, and Wildfire*, and Section 3.10, *Noise and Vibration*, for analyses related to the proposed project's location in the AIA.

Santa Clara Valley Habitat Plan

As explained in Section 3.2, *Biological Resources*, portions of the project site fall under fee zones and conditions identified in Chapter 6 of the *Santa Clara Valley Habitat Plan* (referred to in this EIR as the "Habitat Plan"). To avoid potential conflicts with the Habitat Plan, the proposed project would generally comply with applicable conditions in the plan, including payment of fees to offset impacts on land cover types, wetland fees for impacts on wetlands, and nitrogen deposition fees for

any increases in vehicle trips. The project applicant would also comply with the Habitat Plan by submitting the Santa Clara Valley Habitat Plan Coverage Screening Form to the City. Therefore, as explained in Impact BI-6, the proposed project's impact related to the Habitat Plan would be **less than significant**.

Envision San José 2040 General Plan and Downtown Strategy 2040

The General Plan, as adopted in 2011, envisioned Downtown San José growing by up to 10,360 residential units, 11.2 million gross square feet (gsf) of office uses, 1.4 million gsf of retail uses, and 3,600 hotel rooms by 2040. The General Plan was subsequently amended through the Downtown Strategy 2040, which increased the number of new residential units in the Downtown planning boundary to 14,360 and the square footage of new office uses to 14.2 million gsf. The amount of retail square footage and hotel rooms remained the same in the Downtown Strategy 2040 as in the Downtown Strategy 2000 and General Plan.

As described in Chapter 2, *Project Description*, the City is currently working to amend the DSAP. Included in the amendments is a proposed reallocation of General Plan-authorized growth from other General Plan growth areas in the city to Downtown that would increase the number of residential units and commercial/office uses projected in by 2040 in Downtown by up to 12,619 housing units and the equivalent of up to 14,144,154 gsf of commercial/office uses. The additional 12,619 housing units would likely be transferred from Horizon 2 and 3 Urban Village growth areas.²⁸ The commercial/office capacity would be shifted from other General Plan designated employment areas, such as the North Coyote Valley growth area.²⁹ The final growth allocation, including the precise numbers of dwelling units and jobs transferred from each growth area, will be determined by the San José City Council via adoption of a General Plan amendment following a public planning process for the proposed DSAP amendment.

The General Plan amendment for the proposed project would reallocate a subset of the total residential and office capacity reallocation being considered for the DSAP as a whole to ensure that Downtown has more than enough capacity for the project. Specifically, because the proposed project is anticipated to come before the City Council for approval in advance of the DSAP amendment, the project applicant proposes a project-specific General Plan amendment to reallocate up to 5,575 housing units and 6,306,000 gsf of commercial/office uses from other General Plan growth areas outside of Downtown to the Downtown. This reallocation would be a subset of the overall DSAP reallocation described in the preceding paragraph, and would not be in addition to that total. Also, this proposed reallocation is less than the overall development program for the proposed project because one portion of the project site—the former San Jose Water Company site (Blocks E1, E2, and E3 of the proposed project)—was entitled previously, and because there is sufficient retail and hotel development capacity within Downtown. With this

²⁸ Nearly half of the units would be moved from the Oakridge Mall and Vicinity urban village.

²⁹ In November 2019, the City Council voted to purchase 937 acres of North Coyote Valley. The transaction, in which the Peninsula Open Space Trust and the Santa Clara Valley Open Space Authority also participated financially, involved most of the land in the North Coyote Valley employment growth area. With the purchase, the North Coyote Valley land will be preserved for open space and conservation purposes rather than developed.

reallocation, the total amount of growth anticipated under the General Plan would not change, but instead would shift to the more transit-rich Downtown area.

As detailed in Table 3.9-3, the proposed project is generally consistent with the policies and goals of the General Plan. The proposed project is inconsistent with the following mandatory policies that prohibit the conversion of lands designated for industrial uses and mixed industrial-commercial uses to non-industrial uses and require the preservation of existing lands designated Public/Quasi-Public: Policies LU-1.9 and LU-6.1. These inconsistencies would be eliminated with the proposed General Plan amendments to Policies LU-1.9 and LU-6.1, which would permit the conversion of lands designated for industrial uses and mixed industrial-commercial uses to non-industrial uses and re-designation of existing Public/Quasi-Public lands within the project site. The proposed project would also be inconsistent with Policy LU-13.6, which requires that modifications to a Candidate City Landmark be consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Secretary’s Standards). Under the proposed project, rehabilitation of the building at 150 South Montgomery Street would likely not comply with the Secretary’s Standards.

Table 3.9-3 presents the project’s consistency with the individual goals and policies of the *Envision San José 2040 General Plan*.

**TABLE 3.9-3
 PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
Goal CD-1: Attractive City	
CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.	The Planned Development Permit application would include the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i> , Section 2.12, <i>Downtown West Design Standards and Guidelines</i> , and included as Appendix M to this EIR), which would reflect the City’s standards of architectural and site design for the proposed project and the area. The proposed project would also continue to be subject to the Downtown Design Guidelines and Complete Streets Design Standards and Guidelines, which would continue to apply to the project site unless a standard or guideline is superseded by the proposed project-specific Design Standards and Guidelines.
CD-1.5: Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.	The project includes approximately 15 acres of publicly accessible open spaces, including plazas or squares.
CD-1.10: Promote shared parking arrangements between private uses and the provision of commonly accessible commercial or public parking facilities which can serve multiple users in lieu of providing individual off-street parking on a property-by-property basis. Consider in-lieu parking fees or other policy actions to support this goal.	The project’s Transportation Demand Management plan includes parking that would be distributed over the site. For nonresidential uses, underground garages would be publicly accessible, allowing for shared use with multiple uses at the site.

**TABLE 3.9-3
PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
<p>CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.</p>	<p>Refer to Policy CD-1.1 consistency analysis.</p>
<p>CD-1.15: Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.</p>	<p>Refer to Policy CD-1.1 consistency analysis.</p>
<p>Goal CD-2: Function</p>	
<p>CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.</p>	<p>Refer to Policy CD-1.1 consistency analysis.</p>
<ol style="list-style-type: none"> 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities 7. Integrate existing or proposed transit stops into project designs. 	<p>Refer to Policy CD-1.1 consistency analysis.</p>
<p>CD-2.4: Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.</p>	<p>Refer to Policy CD-1.5 consistency analysis.</p>
<p>CD-2.11: Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.</p>	<p>The project would replace surface parking lots with development that includes structured parking and alternative uses, including commercial, residential, and open space development. Development across the project site would create a cohesive urban form consistent with this policy.</p>

**TABLE 3.9-3
 PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
Goal CD-3: Connections	
CD-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.	The project includes up to 500,000 gsf of active uses, which include retail and service establishments. The project would add residents and employees to support existing and proposed local businesses.
CD-3.5: Encourage shared and alternative parking arrangements and allow parking reductions when warranted by parking demand.	Refer to Policy CD-1.10 consistency analysis.
Goal CD-4: Compatibility	
CD-4.5: For new development in transition areas between identified growth areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.	Refer to Policy CD-1.1 consistency analysis.
CD-4.9: For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).	Refer to Policy CD-1.1 consistency analysis.
Goal CD-5: Community Health, Safety, and Wellness	
CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.	As shown in Chapter 2, <i>Project Description</i> , Figure 2-5, <i>Existing and Proposed Zoning Districts</i> , depicts maximum allowable building heights based on the City's 2018 analysis of the FAA's Terminal Instrument Procedures surfaces. FAA regulations require submittal of a Form 7460-1 for any structure higher than 200 feet, initiating preparation of an aeronautical study to determine whether the structure would be a hazard to aviation. The proposed project would comply with FAA regulations.
CD-5.9: To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.	To the extent this policy concerns noise and vibration and hazards and hazardous materials, refer to Section 3.10, <i>Noise and Vibration</i> , and Section 3.7, <i>Hazards and Hazardous Materials</i> , respectively. To the extent this policy is intended to address land use compatibility, the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i> , Section 2.12, <i>Downtown West Design Standards and Guidelines</i> , and included as Appendix M to this EIR) address the siting and design of proposed land uses and reflect the City's desired land use for the project site and surroundings.
Goal TR-8: Parking Strategies	
TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.	Refer to Policy CD-1.10 consistency analysis.

**TABLE 3.9-3
PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
Goal TR-14: Safe Airport	
TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.	Refer to Policy CD-5.8 consistency analysis.
TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.	Refer to Policy CD-5.8 consistency analysis. General Plan Amendments and rezoning would be submitted to the ALUC for a review of project consistency with CLUP policies.
TR-14.4: Require avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.	General Plan Amendments and rezoning would be submitted to the ALUC for a review of project consistency with CLUP policies.
Goal IE-1: Land Use and Employment	
IE-1.5: Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within the Downtown, North San José, the Berryessa International Business Park and Edenvale.	The project would develop jobs and housing in close proximity to existing transit facilities and infrastructure in Downtown San José.
IE-1.6: Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.	Refer to Policy IE-1.5 consistency analysis.
IE-1.7: Advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California.	The project would intensify development near Diridon Station by introducing additional housing and employment, which would serve to reinforce its use as a key transportation hub for the region.
Goal FS-6: Fiscally Sustainable Land Use Framework	
FS-3.3: Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City’s fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City’s net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.	The project proposes to increase the ratio of jobs to employed residents in San José consistent with this policy.
Goal FS-4: Promote Fiscally Beneficial Land Use	
FS-4.1: Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City’s long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.	The project would result in an estimated 30,551 new jobs.

**TABLE 3.9-3
 PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
FS-4.7: Encourage transit-oriented development as a means to reduce costs for expansion and maintenance of our City's street system, in addition to other benefits and consistent with the General Plan Transportation goals and policies.	Refer to Policy IE-1.5 and Policy IE-1.7 consistency analyses.
Goal PR-1: High Quality Facilities and Programs	
PR-1.7: Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals and/or farmers markets as well as opportunities for passive and, where possible, active recreation.	The project would include enhanced landscaping and new plantings on an aggregate 15 acres of new parks, plazas, open space, riparian setbacks, and mid-block passages on the project site, for the use and enjoyment of area residents, employees, and visitors alike. These approximately 15 acres would include an anchor event and entertainment area with an outdoor performance space, a series of "outdoor living rooms" that would provide space for passive recreational uses, and an array of potential active recreational features along publicly accessible trails and open spaces. For more information about the design of urban public spaces and parklands, refer to the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i> , Section 2.12, <i>Downtown West Design Standards and Guidelines</i> , and included as Appendix M to this EIR).
PR-1.8: Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents' needs are being met.	Refer to Policy PR-1.7 consistency analysis.
PR-1.11: Develop an integrated parks system that connects new and existing large parks together through a network of interconnected trails and/or bike lanes/routes.	<p>The project includes a new public access trail that would extend for a mile along the project site's north-south axis. Some portions would be a Class I trail aligned along Los Gatos Creek and others may follow street rights-of-way as a Class IV bikeway. Open spaces in the southern portion of the site would consist primarily of passive recreation green space where a publicly accessible trail would follow Los Gatos Creek. For more information about the project's connection to the City park system, refer to the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i>, Section 2.12, <i>Downtown West Design Standards and Guidelines</i>, and included as Appendix M to this EIR).</p> <p>In addition, as described in Chapter 2, <i>Project Description</i>, Section 2.7.5, <i>Building Access and Egress</i>, the project applicant would undertake a series of off-site transportation network improvements, including a new footbridge over Los Gatos Creek between West Santa Clara Street and the VTA light rail tracks; new at-grade crossings (crosswalk and curb improvements) for the Los Gatos Creek Trail to cross West Santa Clara Street at Delmas Avenue and to cross West San Carlos Street at Royal Avenue; and a two-way cycle track between the existing trail route on the west side of Los Gatos Creek at Auzerais Avenue and the Auzerais Avenue east of the Caltrain tracks, where the project's southernmost "supplemental" trail segment would begin.</p>

**TABLE 3.9-3
PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
Goal LU-1: General Land Use	
<p>LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.</p>	<p>Refer to Policy FS-3.3 consistency analysis. The project would also develop up to 5,900 dwelling units to assist in housing a resident workforce.</p>
<p>LU-1.2: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.</p>	<p>The project applicant proposes to construct mid-block passages at several locations to facilitate pedestrian and bicycle access through the project site and break up the scale of larger blocks. For more information about pedestrian connections, refer to the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i>, Section 2.12, <i>Downtown West Design Standards and Guidelines</i>, and included as Appendix M to this EIR).</p>
<p>LU-1.3: Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.</p>	<p>Refer to Policy LU-1.3 consistency analysis.</p>
<p>LU-1.5: Encourage developers of large commercial and industrial projects to identify and appropriately address the potential need generated by these projects for child care facilities or services. The provision of on-site child care may be considered for a single tenant building in industrial areas primarily for use by employees of the industrial facility. Do not locate off-site, freestanding child care facilities within industrial areas, except for those areas that have been designated for such uses.</p>	<p>The project has studied childcare facilities as part of the "active uses" proposed in mixed-use buildings.</p>
<p>LU-1.6: With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.</p>	<p>The project would comply with all federal, state, and local standards.</p>
<p>LU-1.7: Locate employee-intensive commercial and industrial uses within walking distance of transit stops. Encourage public transit providers to provide or increase services to areas with high concentrations of residents, workers, or visitors.</p>	<p>Refer to Policy IE-1.5 consistency analysis.</p>
<p>LU-1.8: Collaborate with appropriate external agencies with land use authority or regulations in San José. Consider applicable Airport Land Use Commission, Santa Clara Valley Water District, Local Area Formation Commission, and other policies from outside agencies when reviewing new or expanded uses.</p>	<p>The project would coordinate with all external agencies with land use authority or regulations in San José, including the ALUC, Santa Clara Valley Water District, and Santa Clara Valley Habitat Agency, among others. Refer to Chapter 2, <i>Project Description</i>, Section 2.15, <i>Uses of the EIR and Required Project Approvals</i>, for a list of required project approvals.</p>
Goal LU-2: Growth Areas	
<p>LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.</p>	<p>The project site is within the Diridon Station Area Plan and the Downtown Growth area, which have been designated as such to take full advantage of the transit connectivity the site affords. The proposed project has been designed to concentrate development, ensure efficient delivery of services, and create a walkable urban environment.</p>

**TABLE 3.9-3
 PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
Goal LU-3: Downtown	
<p>LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.</p>	<p>The project would develop a dense, mixed-use neighborhood that would include not only workplaces, but also housing, active commercial and open spaces with the amenities and services necessary to support a community of residents and workers.</p>
<p>LU-3.2: Support Downtown as a primary employment center in the region, especially for financial institutions, insurance companies, government offices, professional services, information and communication technology companies, and businesses related to conventions.</p>	<p>The project would support Downtown as an employment center by providing development of office space and related uses accommodating an estimated 30,551 new employees. A large majority of these would be employees of Google, which is a technology company.</p>
<p>LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.</p>	<p>Refer to Section 3.13, <i>Transportation</i>, for a discussion of project impacts related to bicyclist and pedestrian safety, and the Policy CD-1.1 consistency analysis for a discussion of the Downtown West Design Standards and Guidelines.</p>
<p>LU-3.8: Leverage Downtown’s urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.</p>	<p>The project would leverage Downtown San José’s abundant transit and multi-modal transportation options by providing for a dense mixed-use development with ample public open space, pedestrian and bicycle facilities, and active uses.</p>
Goal LU-4: Commercial	
<p>LU-4.4: Allow limited industrial uses in commercially designated areas if such uses are of a scale, design, or intensity that creates less than significant negative impacts to surrounding uses.</p>	<p>The project would not propose industrial uses.</p>
Goal LU-5: Neighborhood Serving Commercial	
<p>LU-5.1: In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.</p>	<p>Refer to Policy IE-1.5 consistency analysis.</p>
<p>LU-5.2: To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.</p>	<p>The project would locate neighborhood-serving commercial uses in an identified growth area and proposes up to 500,000 gsf of such active uses.</p>
<p>LU-5.3: Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use/Transportation Diagram.</p>	<p>The proposed project would remove low-intensity industrial uses and replace them with dense stand-alone office and residential buildings, as well as mixed-use buildings in City-designated growth areas near transit.</p>
<p>LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.</p>	<p>Refer to Section 3.13, <i>Transportation</i>, for a discussion of project impacts related to bike storage and bicyclist and pedestrian safety, and to the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i>, Section 2.12, <i>Downtown West Design Standards and Guidelines</i>, and included as Appendix M to this EIR) for more information on the project’s pedestrian and bicycle circulation features.</p>

**TABLE 3.9-3
PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
<p>LU-5.5: Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.</p>	<p>Refer to Policy CD-1.1 consistency analysis and to the Downtown West Design Standards and Guidelines (described further in Chapter 2, <i>Project Description</i>, Section 2.12, <i>Downtown West Design Standards and Guidelines</i>, and included as Appendix M to this EIR) for how the project would encourage pedestrian and vehicular connections between adjacent properties and facilitate shared parking arrangements.</p>
<p>LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.</p>	<p>The majority of project buildings would have ground-floor active uses.</p>
<p>LU-5.8: Encourage outdoor cafes and other outdoor uses in appropriate commercial areas to create a vibrant public realm, maximize pedestrian activity, and capitalize on San José’s temperate climate.</p>	<p>Refer to Policy CD-1.1 consistency analysis.</p>
<p>Goal LU-6: Industrial Preservation</p>	
<p>LU-6.2: Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues.</p>	<p>The proposed project would remove low-intensity industrial uses and replace them with dense stand-alone office and residential buildings as well as mixed-use buildings in City-designated growth areas near transit. The proposed project would also be consistent with the City’s strategy to implement growth in Downtown, as expressed in Policies LU-3.1 to LU-3.8 discussed above, and would be consistent with regional plans to implement growth in transit-accessible areas as outlined in <i>Plan Bay Area 2040</i>.</p>
<p>LU-6.3: When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site.</p>	<p>Refer to the analysis and mitigation measures throughout this EIR, which address potential environmental impacts on existing nearby land uses and future residents and employees at the project site.</p>
<p>Goal LU-9: High-Quality Living Environments</p>	
<p>LU-9.2: Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.</p>	<p>The project would develop commercial uses in a new mixed-use neighborhood and adjacent to the central Downtown, Garden Alameda, West San Carlos, Hannah-Gregory, Auzeirais-Josefa, and Lakehouse neighborhoods.</p>
<p>Goal LU-10: Efficient Use of Residential and Mixed-Use Lands</p>	
<p>LU-10.2: Distribute higher residential densities throughout our city in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.</p>	<p>The project would develop high-density mixed-use buildings in Downtown, which is an identified growth area. The project applicant proposes that the entire project site be designated in both the General Plan and the DSAP with a combination of Downtown and Commercial Downtown designations. The Downtown land use designation allows a residential density of 800 units per acre.</p>
<p>LU-10.3: Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.</p>	<p>Refer to Policy IE-1.5 consistency analysis.</p>

**TABLE 3.9-3
 PROJECT CONSISTENCY WITH APPLICABLE ENVISION SAN JOSÉ 2040 GENERAL PLAN POLICIES**

Policy	Consistency Analysis
LU-10.5: Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.	The project would develop housing and jobs to provide residents with the opportunity to live and work in the same community. Refer to Section 3.11, <i>Population and Housing</i> , for a discussion of the jobs/housing balance in the city of San José.
Goal LU-13: Landmarks and Districts	
LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.	Refer to Section 3.3, <i>Cultural Resources and Tribal Cultural Resources</i> .
LU-13.2: Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.	The project would preserve and rehabilitate two CEQA-eligible historic resources, modify one historic resource in a manner that is not consistent with the <i>Secretary of the Interior's Standards</i> , and result in demolition of five CEQA-eligible historic resources. Refer to Section 3.3, <i>Cultural Resources and Tribal Cultural Resources</i> , for a discussion of the project's mitigation measures related to documentation, relocation, rehabilitation, and salvage to the extent feasible.
LU-13.6: Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.	Alteration to 150 South Montgomery will not likely conform to the Secretary of the Interior's Standards.
Goal IP-1: Land Use/Transportation Diagram	
IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.	Refer to Policy LU-5.3 consistency analysis.
IP-1.7: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.	The project site contains unique physical characteristics, including its location at the edge of Downtown, bounded by transportation (rail and roadway) corridors, and proximity to a train station. Therefore, the project proposes a Planned Development zoning designation consistent with City and regional plans to take full advantage of the amenities the site affords.
IP-1.8: Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or pre-zoning proposals.	The City would ensure consistency with this policy as part of its decision to approve amendments to the General Plan and DSAP, Planned Development Rezoning, Planned Development Permit, Downtown West Design Standards and Guidelines, and related entitlements.
<p>NOTES:</p> <p>ALUC = Airport Land Use Commission; BART = Bay Area Rapid Transit; CEQA = California Environmental Quality Act; City = City of San José; CLUP = Comprehensive Land Use Plan; DSAP = Diridon Station Area Plan; EIR = environmental impact report; FAA = Federal Aviation Administration; General Plan = <i>Envision San José 2040 General Plan</i>; gsf = gross square feet</p> <p>SOURCE: City of San José, <i>Envision San José 2040 General Plan</i>, adopted November 1, 2011 (amended March 16, 2020). Available at https://www.sanjoseca.gov/home/showdocument?id=22359. Accessed January 16, 2020.</p>	

A project is consistent with the General Plan if, considering all of its aspects, it will further the objectives and policies of the General Plan and will not obstruct their attainment. Perfect conformity with every policy set forth in the General Plan is not required; rather, it is sufficient that the project would be in substantial conformance with the objectives, policies, general land uses and programs specified in the General Plan. At the same time, the project proposes certain amendments to the General Plan to ensure that the project would not conflict with any General Plan policy that is fundamental, mandatory, and clear. With approval of the proposed General Plan amendments, the project on balance would achieve consistency with the General Plan (including the Downtown Strategy 2040) and the DSAP because it would further the objectives, policies, general land uses, and programs of the General Plan, including the General Plan's Destination Downtown Strategy and Policy LU-2.2, which targets the Downtown area for ambitious job and housing growth to support key infrastructure investments, including the planned BART and high-speed rail systems. For this reason, the proposed project's impact related to the General Plan would be **less than significant**. As noted above, the project's proposed amendments to the General Plan include changes in growth allocations, assignment of the Downtown and Commercial Downtown land use designations to the project site, and reclassification of streets in the transportation diagram.

Diridon Station Area Plan

In 2014, the City approved the DSAP, which establishes a vision for Diridon Station and the surrounding area in response to the planned extension of BART and high-speed rail service to San José. The majority of the DSAP is within the Downtown boundary as defined in the Downtown Strategy 2040.

The DSAP would be amended to reclassify project site height limits as shown in Chapter 2, *Project Description*, Figure 2-6. In addition, the DSAP land use plan would be modified to reflect the proposed project. Additional changes to the DSAP would include but not be limited to accommodating proposed open space on the project site in a distributed manner, rather than as a single park; updating the land use plan and modifying bicycle and street connections and transit; modifying the DSAP primary zones for consistency with the envisioned character of each zone; revising the parking discussion; updating the infrastructure discussion; and revising the section on affordable housing to accommodate the proposed project.

Through amendments to the DSAP and General Plan, including changes to the land use designations on the project site and through DSAP amendments for reclassifying building height limits, the proposed project would be consistent with the amended DSAP and General Plan, and would reflect the City's desired vision for the area.³⁰ For this reason, the proposed project's impact related to the DSAP would be **less than significant**.

Zoning Ordinance

The General Plan sets the broad parameters for growth in San José and establishes future land use patterns. At the same time, the City uses zoning to establish uses and development standards for

³⁰ Separate from the proposed project, the City is undertaking an update of the DSAP, as described in Chapter 2, *Project Description*.

properties. The project site is within the following zoning districts: Heavy Industrial (HI), Industrial Park (IP), Light Industrial (LI), Commercial Neighborhood (CN), Planned Development (PD), Public/Quasi-Public (PQP), and Combined Industrial/Commercial (CIC).

The proposed project's uses would conflict with existing zoning designations on the project site. To resolve conflicts between existing zoning and the proposed uses, the project proposes to rezone the project site. The new zoning district would be reflected in the City's zoning map as a Planned Development Zoning District. The City's Municipal Code requires that a Planned Development Zoning District be combined with an existing base zoning district. The project applicant proposes amending the base zoning districts and proposes that the base district for the entire site be zoned Downtown Commercial. The new Planned Development Zoning District would establish permitted and conditionally permitted land uses, high-level development standards, and a subsequent process for conformance review of project phases and design review or vertical improvements and open space. Therefore, because the City's zoning map would be amended as described, the proposed project would not conflict with the City's Zoning Ordinance, and this impact would be **less than significant**.

Land Use and Planning Conclusion

If the San José City Council finds that amendments to the General Plan and Zoning Ordinance are warranted to allow implementation of the proposed project, the City would resolve conflicts between the General Plan, DSAP, and Zoning Ordinance, and the proposed project through a legislative amendment of the General Plan, DSAP, and the Zoning Ordinance.

A conflict with a plan, policy, or regulation does not indicate a significant environmental land use impact under CEQA unless the project substantially conflicts with a land use plan or policy adopted to avoid or mitigate an environmental effect, such that the conflict would result in a substantial adverse physical change in the environment related to land use. To the extent that such conflicts may result in substantial physical environmental impacts, this EIR discloses and analyzes these physical impacts in the relevant environmental topic sections, as noted in the introduction to this section. See, for example, Section 3.1, *Air Quality*; Section 3.3, *Cultural Resources and Tribal Cultural Resources*; Section 3.10, *Noise and Vibration*; and Section 3.13, *Transportation*.

For the most part, the proposed project would not conflict with land use plans and policies such that a substantial adverse physical change in the environment related to land use would result. However, as noted above, a portion of the project site designated for residential and hotel use is located within the CLUP 2027 65 dB CNEL contour and would conflict with CLUP Policy N-4. **Mitigation Measure NO-3, Exposure to Airport Noise**, would address interior noise levels, but would not protect outdoor areas associated with residential uses from aircraft noise.

Mitigation Measures

Mitigation Measure NO-3: Exposure to Airport Noise (refer to Section 3.10, Noise and Vibration)

Significance after Mitigation: Significant and Unavoidable. Mitigation Measure NO-3 would reduce interior noise levels for residential uses within the 65 dBA CNEL noise

contour to 45 dB CNEL or less. However, because the project could include outdoor residential areas within the airport's 65 dBA CNEL noise contour, it could result in a land use that is not compatible with the CLUP. This impact, therefore, would be significant and unavoidable.

Shadow

Impact LU-3: The proposed project would not result in 10 percent or more of the area of any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park) being newly shaded by the project. (*Less than Significant*)

This analysis is based on a shadow study prepared by Integral Group, which is included as Appendix L to this Draft EIR. As described in *Approach to Analysis* earlier in this section, the shadow analysis assumes that all project buildings would reach the maximum allowable height (180–290 feet) shown in Chapter 2, *Project Description*, Figure 2-5, and would cover the entire footprint of each block on the project site, as shown in Chapter 2, *Project Description*, Figure 2-6. The shadow model does not include required building setbacks at upper stories, and therefore, is a worst-case scenario.³¹ The shadow analysis evaluates project-generated shadows on the winter solstice, December 21, because this is the shortest day of the year and is when the sun is lowest in the sky and shadows are the longest at any given time of day. To bracket the range of impacts, the analysis also considers the summer solstice (June 21) and the spring/fall equinoxes (March 21/September 21), during the hours of 10 a.m., 12 noon, and 3 p.m.

Development of the proposed project would increase shadow on publicly accessible recreation and open spaces near the project site. The shadow analysis determined that the proposed project would not cast new shadow on St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, or McEnery Park during the times of year analyzed. However, the shadow analysis did identify that net new shadow would be cast on Guadalupe River Park; therefore, a quantitative analysis of net new shadow on Guadalupe River Park was prepared. The quantitative analysis determined that the maximum effect of the proposed project would increase the area shaded by 3.5 percent of the park area, at 3 p.m. on the winter solstice. At the other times analyzed, the increase in the area of Guadalupe River Park shaded would range from 0 percent to 1.8 percent. Because shadow cast by the proposed project would amount to less than 10 percent of the area of Guadalupe River Park at all times analyzed, the impact would be **less than significant**. These results are summarized in **Table 3.9-4**.

³¹ Trees and landscaping are not included in the model. For the parks considered in this analysis, existing shading from trees and landscaping is described qualitatively.

**TABLE 3.9-4
 SUMMARY OF PROPOSED PROJECT SHADOW ON GUADALUPE RIVER PARK**

Guadalupe River Park ^a	Existing Shadow		Proposed Project Shadow		Change	
	Area (sf)	Percent of Park (%)	Area (sf)	Percent of Park (%)	Percent Increase (%)	Exceeds 10% Threshold?
March 21/September 21 (Spring Equinox)						
10 a.m.	384,713	3.3	415,260	3.6	0.3	No
12 p.m.	343,638	3.0	360,655	3.1	0.1	No
3 p.m.	364,014	3.1	472,912	4.1	1.0	No
June 21 (Summer Solstice)						
10 a.m. ^b	351,926	3.0	351,926	3.0	0.0	No
12 p.m. ^b	295,426	2.5	295,426	2.5	0.0	No
3 p.m.	331,453	2.9	370,504	3.2	0.3	No
December 21 (Winter Solstice)						
10 a.m.	516,398	4.5	725,993	6.3	1.8	No
12 p.m.	446,820	3.9	628,213	5.4	1.5	No
3 p.m.	524,880	4.5	931,820	8.0	3.5	No

NOTES:

sf = square feet

^a Guadalupe River Park has an area of 11,549,245 sf.

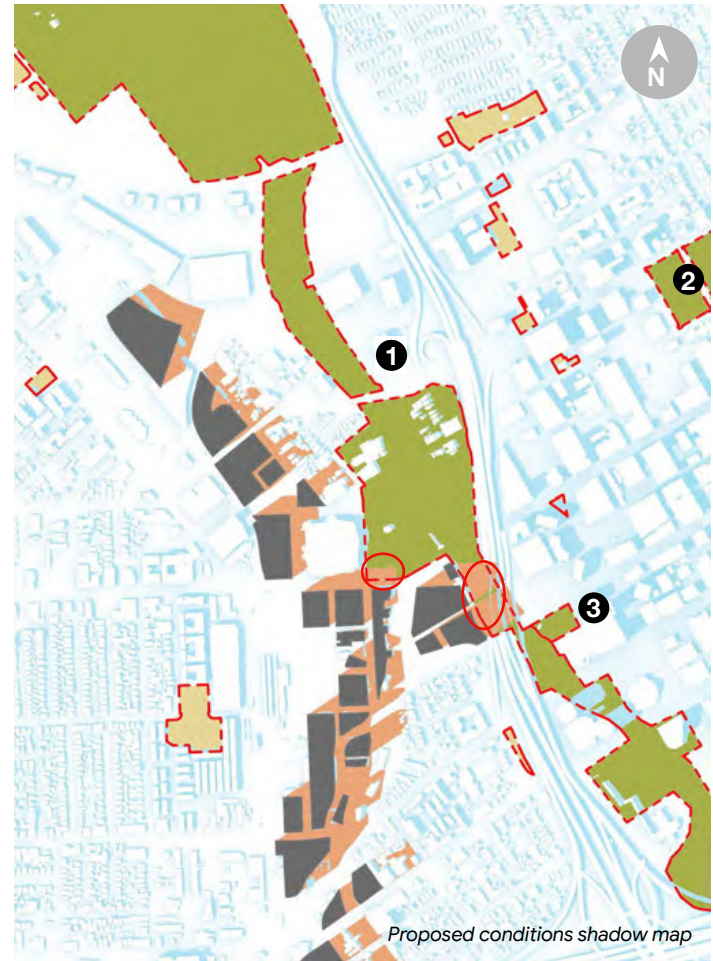
^b Because the proposed project would add no new shadow at these times, existing shadow was not quantified.

SOURCE: Integral Group, *Shadow Analysis: Impact on Major Parks*, using parks GIS mapping data from San José Parks, Recreation, and Neighborhood Services Department, June 26, 2020.

To provide a visual understanding of the location, size, and extent of the new shading, graphics were prepared to accompany the qualitative analysis for times of the year in which shading on Guadalupe River Park would increase by a perceptible amount (more than 0.5 percent of the area of Guadalupe River Park). **Figures 3.9-5 through 3.9-8** depict existing-plus-project shadow for the four times of the year when shading at Guadalupe River Park would exceed 0.5 percent of the park area. In these figures, a red dashed box highlights areas where net new shading would occur as a result of the proposed project.

As shown on Figure 3.9-5, at 3 p.m. on March 21/September 21, shadow from the proposed project would cover a planting of palm trees and a small portion of a grassy lawn at the southwest corner of Arena Green West (an area of Guadalupe River Park). At the same time, a small portion of the Guadalupe River Trail and adjacent landscaping in Guadalupe River Park between West Santa Clara Street and SR 87 would be shaded as well. Figures 3.9-6 through 3.9-8 depict existing-plus-project shadow in December at 10 a.m., 12 p.m., and 3 p.m., respectively. As shown on these figures, net new shadow cast by the proposed project would cover the Children’s Carousel at Arena Green, a play structure, the Five Skaters sculpture, the Vietnam War Memorial, grassy areas, picnic tables, and benches at 10 a.m. By 12 p.m., net new shadow would travel east across Arena Green, receding from the carousel, play structure, and sculpture and crossing the Guadalupe River to Confluence East. Project shadow would cover the Vietnam War Memorial, grassy areas, benches, and picnic tables, as well as a short section of the Guadalupe River Trail just north of where it

- Net New Shadow
- Existing Shadow
- Analysis Parks
- 1 Guadalupe River Park
- 2 St. James Park
- 3 McEnery Park
- Park Lots
- Project Shadow on Guadalupe River Park

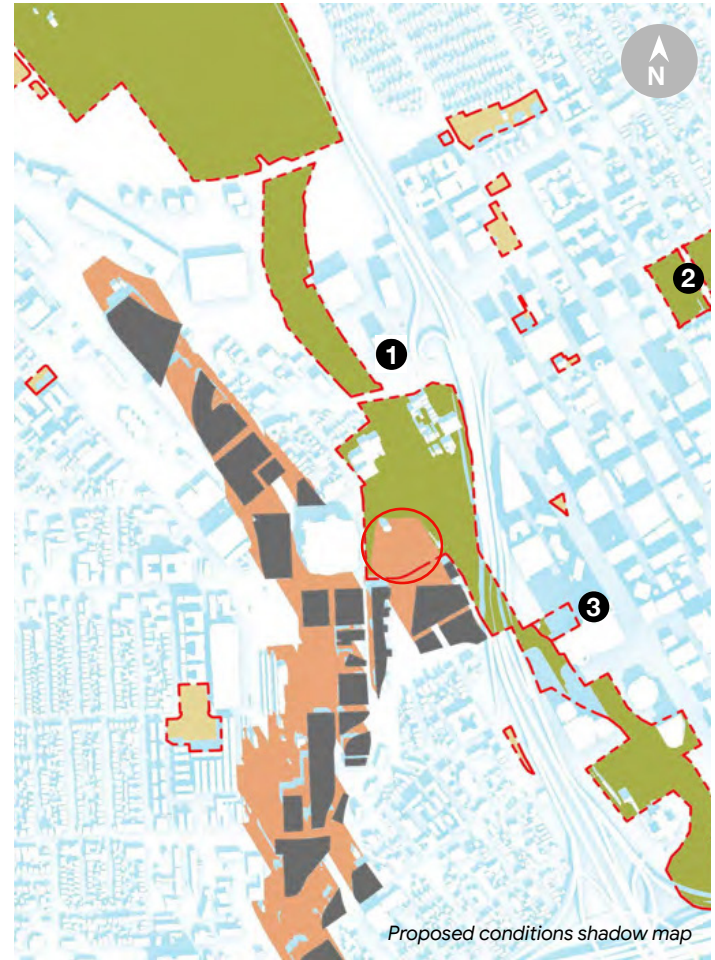


SOURCE: Google LLC, 2020

Downtown West Mixed-Use Plan

Figure 3.9-5
Existing and Proposed Shadow Area – March 21 at 3 p.m. (September 21 similar)

- Net New Shadow
- Existing Shadow
- Analysis Parks
- ① Guadalupe River Park
- ② St. James Park
- ③ McEnery Park
- Park Lots
- Project Shadow on Guadalupe River Park

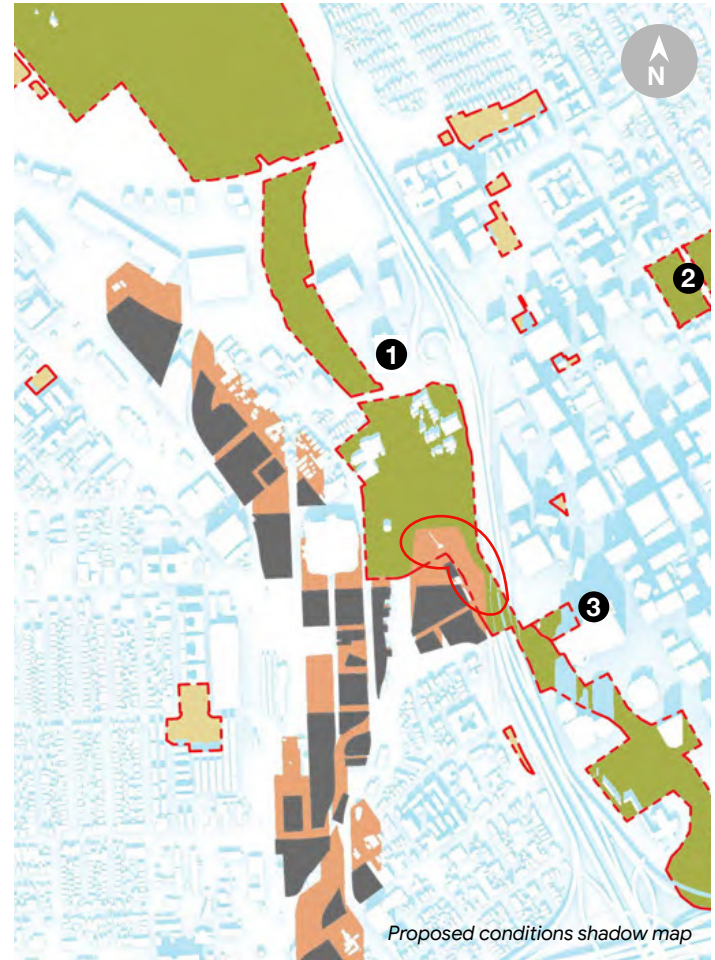


SOURCE: Google LLC, 2020

Downtown West Mixed-Use Plan

Figure 3.9-6
Existing and Proposed Shadow Area – December 21 at 10 a.m.

- Net New Shadow
- Existing Shadow
- Analysis Parks
- 1 Guadalupe River Park
- 2 St. James Park
- 3 McEnery Park
- Park Lots
- Project Shadow on Guadalupe River Park

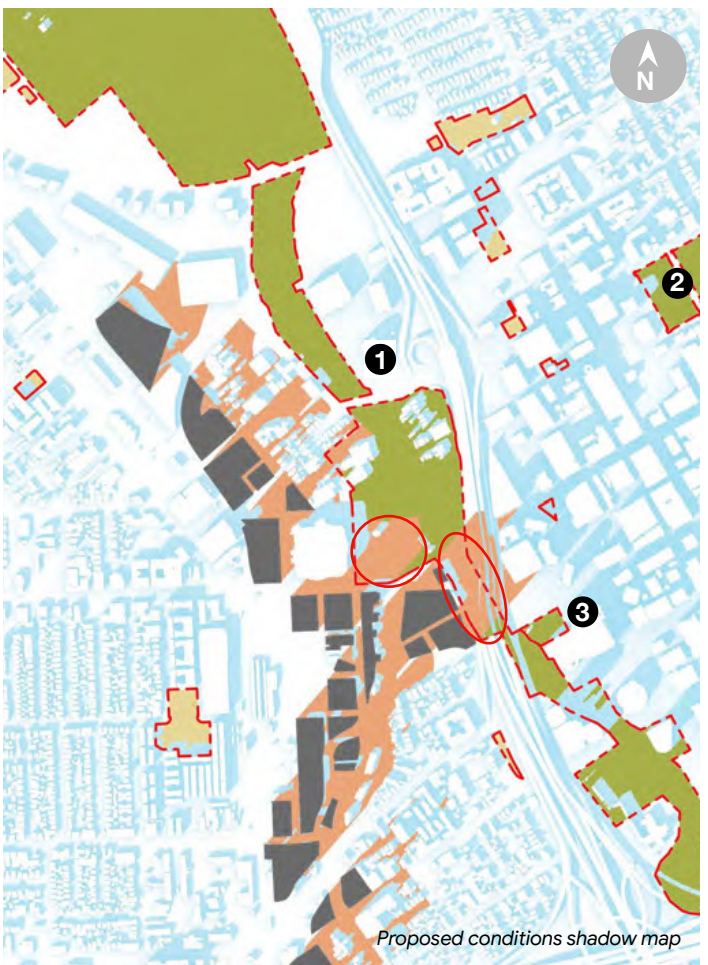
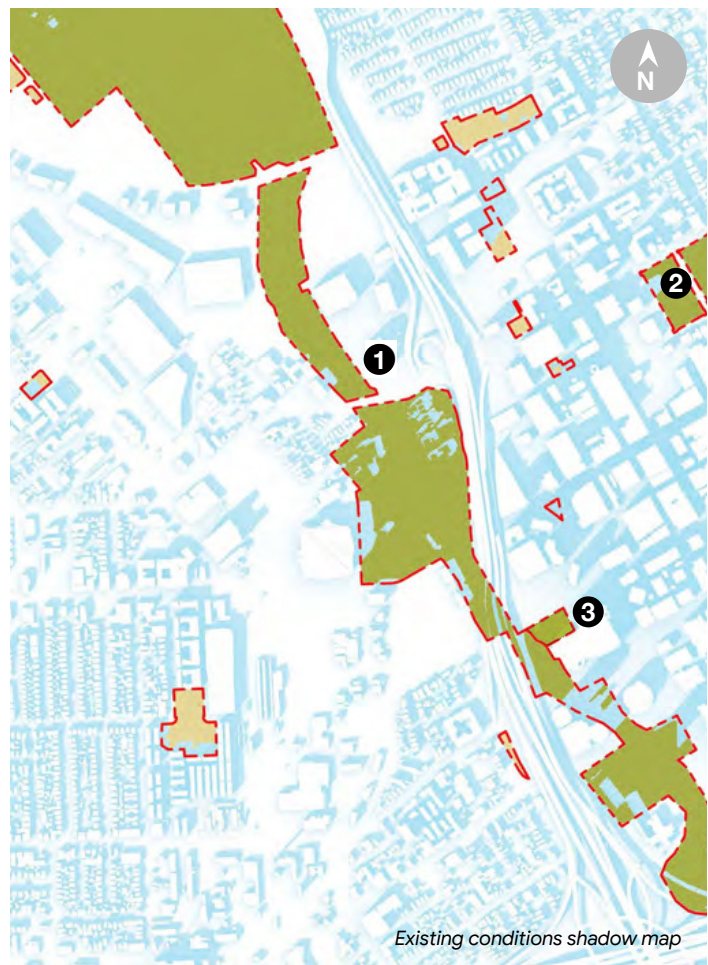


SOURCE: Google LLC, 2020

Downtown West Mixed-Use Plan

Figure 3.9-7
Existing and Proposed Shadow Area – December 21 at 12 noon

- Net New Shadow
- Existing Shadow
- Analysis Parks
- 1 Guadalupe River Park
- 2 St. James Park
- 3 McEnery Park
- Park Lots
- Project Shadow on Guadalupe River Park



SOURCE: Google LLC, 2020

Downtown West Mixed-Use Plan

Figure 3.9-8
Existing and Proposed Shadow Area – December 21 at 3 p.m.

crosses beneath SR 87. At 3 p.m., shadow would recede from the Vietnam War Memorial, but net new shadow would return to the Arena Green West palm trees, carousel, play structure, grassy lawns, and benches. In addition, at 3 p.m. on the winter solstice, net new shadow would be cast on the east side of Guadalupe River covering a portion of the Guadalupe River Trail.

It is noted that nearly all the net new shadow from the proposed project, except in December at 3 p.m., would be cast by buildings proposed on the site of a previously approved mixed-use project on the former San José Water Company site (now Blocks E1, E2, and E3 within the proposed project), which permitted up to 1.04 million gsf of commercial space, including approximately 994,000 gsf office and 31,000 gsf retail space, and 325 multifamily attached residences.³² In general, shadows cast by the proposed project would be comparable to those that would have been cast by the previously approved project, except in December at 3 p.m., when the currently proposed project would also cast shadow on Arena Green from buildings other than those on the Water Company site. Additionally, the Downtown West Design Standards and Guidelines would include standards which would limit the massing of Blocks E1, E2, and E3, potentially resulting in less shadow on open spaces than that which is studied.

Mitigation: None required.

Cumulative Impacts

Land Use and Planning

Impact C-LU-1: The proposed project, in combination with past, present, existing, approved, pending, and reasonably foreseeable future projects within and in the vicinity of the project site, would not physically divide an established community. (*Less than Significant*)

The cumulative geographic context for land use divisions consists of projects located within 0.5 miles of the DSAP boundary, as identified in Figure 3-1 and Appendix B, and the large-scale projects described in the introduction to Chapter 3, *Environmental Setting, Impacts, and Mitigation*, in combination with the proposed project.

As discussed above, under CEQA, physical division of an established community typically applies to projects, such as highway construction, that would create a barrier that would physically sever two or more connected parts of a community.³³

Like the proposed project, most of the cumulative projects are individual land use development projects that would occur on specific development parcels within the existing land use and

³² Refer to Delmas Mixed-Use Project (File Nos. PDC15-051, PD15-061, PT16-012, and HP16-002). Available at: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/park-and-delmas-mixed-use-residential-project>.

³³ *Cathay Mortuary, Inc. v. San Francisco Planning Commission*, No. A039937, 207 Cal. App. 3d 275; 254 Cal. Rptr. 778; 1989 Cal. App. LEXIS 22, January 20, 1989.

transportation fabric of the community. However, three large-scale projects could combine with impacts from the proposed project:

- The Peninsula Corridor Electrification Project, a key component of the Caltrain Modernization Program that will electrify the corridor from San Francisco’s 4th and King Caltrain Station to the Tamien Caltrain Station, a distance of approximately 51 miles.
- The DSAP amendments, which include changes to the DSAP boundary and increases in height limits and development capacity.
- Valley Transportation Authority’s BART Silicon Valley Extension Program, which will extend BART to Santa Clara through the Diridon Station area.

The Peninsula Corridor Electrification Project will be within the existing railroad right-of-way, and thus will not result in a new or expanded physical barrier.

The DSAP amendments would revise the DSAP boundary, incorporate development capacity changes, revise land use and zoning designations to eliminate a previously proposed Major League Baseball ballpark, and increase height limits. As described in the 2014 DSAP, a parking garage may be constructed on Lot E north of SAP Center, adjacent to the project site, or in the immediate vicinity. The proposed project in combination with the DSAP amendments would remove surface parking lots and improve the public realm to improve transit access and pedestrian and bicycle circulation and facilitate connectivity, both within the site and to and from surrounding neighborhoods.

In the vicinity of the project site, the BART Silicon Valley Extension will be largely underground; therefore, this project would not combine with the proposed project to result in an aboveground physical barrier in an established community.

The California High Speed Rail system, which would include a stop at Diridon Station, and the Diridon Station Integrated Concept Plan (DISC), an ongoing planning process focusing on Diridon Station and its interface with the urban fabric, are also somewhat relevant, although the physical forms of these plans have not been finalized. The California High Speed Rail and DISC are further described in Chapter 3, *Environmental Setting, Impacts, and Mitigation*.

Major elements of the DISC Plan suggest that pedestrian and bicycle access to and through Diridon Station; facilities for emerging modes of “micro-mobility” such as e-scooters; and urban integration (the connection between the station, track infrastructure, and surrounding neighborhoods and potential for amenities, such as plazas and community gathering space) would serve to configure the station and surrounding area in such a way to improve accessibility. Further, the DISC Plan would integrate Diridon Station with the surrounding area, optimizing passenger flows to, from, and through the station. This integration would ensure that ongoing and planned transportation projects would not result in a barrier that would physically divide an established community.

In addition, the project would provide various improvements to public areas such as sidewalk widening, plazas, mid-block passages, and green spaces. These improvements would be intended to improve pedestrian spaces and enhance connectivity to regional transit available in the

immediate vicinity (Caltrain, Altamont Corridor Express trains, planned BART service, and proposed high-speed rail); enhance local pedestrian circulation; and improve bicycling linkages to Downtown San José, adjacent neighborhoods, and regional trails for residents and visitors.

The land use development cumulative projects do not include any foreseeable projects that would physically divide or sever existing connected parts of the community, or make it impossible or extremely inconvenient for a person to get from one part of the established community to a previously connected part of the community. However, if there were any projects that could physically divide or sever existing connected parts of the community, the proposed project would not considerably contribute to this potential, related cumulative project impact. The design of each related project would be evaluated on a project-by-project basis to determine its compatibility with the surrounding uses. Further, related projects are subject to CEQA review, and to review by other regulatory agencies.

The related cumulative projects are urban infill in nature and, while increasing density, would be constructed on parcels that fit in with the existing framework of land use and circulation in the existing community, and would not create physical barriers that would physically divide an established community. As described previously, the proposed project would have a less-than-significant impact as a result of the extended network of public streets through the project site and pedestrian and bicycle circulation enhancements, in addition to new open space. All of these changes would enhance public access to and through the project site and to the Guadalupe River. Based on the above considerations, the proposed project, in conjunction with other cumulative development within the project vicinity, would not divide an established community. Therefore, the cumulative effect would be **less than significant**.

Impact C-LU-2: The proposed project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would result in a significant cumulative impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (*Significant and Unavoidable*)

The cumulative geographic context for land use plans and policy considerations for development of the proposed project consists of projects located within 0.5 miles of the DSAP boundary, as identified in Figure 3-1 and Appendix B, and the large-scale projects described in the introduction to Chapter 3, *Environmental Setting, Impacts, and Mitigation*, in combination with the proposed project.

The proposed project would combine with growth in the areas described above, the Downtown Strategy 2040 Plan and DSAP areas, and with other reasonably foreseeable projects to transform the area surrounding Diridon Station. The area would transform from a low-density, substantially industrial/commercial area to a mixed-use residential-commercial area. However, this transformation would be largely consistent with both adopted local and regional plans, including the previously identified plans, the General Plan, and Plan Bay Area. As described in Section 3.11, *Population and Housing*, the proposed project, including reallocated growth and buildout of the DSAP, would be within the amount of overall planned growth in the General Plan.

Projected growth and the cumulative development projects would increase density in the area and, together with cumulative increases in transit infrastructure, would support the increased use of transit and other non-single-occupant vehicle modes of transportation. This would reduce the need for motor vehicle travel in the area surrounding the project site and support the revitalization of the city. This type and location of development is consistent with statewide, regional, and local plans that seek to accommodate increased population growth while achieving goals to reduce GHG emissions and other typical environmental effects of suburban sprawl and greenfield development.

Impacts related to conflicts with applicable land use plans, policies, or regulations of an agency with jurisdiction over the related projects generally are specific to the individual related projects; the impacts are not cumulative. However, the proposed project together with related cumulative projects would result in development, including high-density residential, commercial, hotel, and entertainment uses, that would be concentrated in a transit priority area. This transformation would be largely consistent with adopted regional and local plans, including the plans noted above, the General Plan, the DSAP, the *Santa Clara Valley Habitat Plan*, and Plan Bay Area.

However, as noted above, a portion of the project site designated for residential use is located within the 2027 65 dB CNEL contour. This portion of the proposed project would conflict with CLUP Policy N-4, which states that no residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed use residential project or a multi-unit residential project. Implementation of **Mitigation Measure NO-3, Exposure to Airport Noise**, would require preparation of a noise reduction plan to ensure that residential buildings subject to such noise levels would be designed so that interior noise levels would not exceed 45 dBA. However, it is not possible to mitigate noise levels for any outdoor patios or outdoor activity areas because mitigation would essentially entail converting this outdoor space to indoor space, given that the source of aircraft noise is from aircraft flying above the residential receptors. Thus, as identified above, the proposed project would result in a significant and unavoidable project-level impact.

This impact would result from development on the project, affecting the future residential receptors on the project site. Areas outside of the project site are zoned for residential uses such that additional residential development could occur in the 65 dB CNEL contour, including the Market/Almaden, Washington/Guadalupe, Tamien, and Goodyear/Mastic neighborhoods to the southeast, and the Rosemary Gardens neighborhood as well as portions of the City of Santa Clara, from south of Montague Expressway to Tasman Drive, to the north. These neighborhoods have existing residential uses already within the 65 dB CNEL noise contour and new residential development there, should it occur, would likewise be subject to aircraft noise that could be in conflict with CLUP Policy N-4. Because the proposed project would also conflict with CLUP Policy N-4, the impact of the proposed project in combination with cumulative projects would likewise be **significant and unavoidable**.

Mitigation: Mitigation Measure NO-3, Exposure to Airport Noise.

Significance after Mitigation: Significant and Unavoidable. Because the proposed project alone would result in a conflict with CLUP Policy N-4, and future residential development within the 65 dB CNEL noise contour could likewise conflict with that policy, the proposed project, in combination with cumulative projects, would conflict with the CLUP such that future residential receptors in outdoor areas would be subject to elevated noise levels by being located in the 2027 65 dB CNEL contour. For this reason, the impact would be significant and unavoidable.

Shadow

Impact C-LU-3: The proposed project, in combination with past, present, existing, approved, pending, and reasonably foreseeable future projects within and in the vicinity of the project site, would not result in significant cumulative impacts related to shadow. (*Less than Significant*)

The cumulative geographic context for shadow impacts consists of projects located within 0.5 miles of the DSAP boundary, as identified in Figure 3-1 and Appendix B, and the large-scale projects described in the introduction to Chapter 3, *Environmental Setting, Impacts, and Mitigation*, in combination with the proposed project.

As required in the Downtown Strategy 2040 Plan EIR, all cumulative projects in Downtown San José, including portions of the DSAP area, would prepare project-specific shade and shadow analyses. The shade and shadow analysis must demonstrate that the proposed development would not cause 10 percent or more of the area of the six open space areas considered in this analysis to be newly shaded by the project. The project-level shadow analysis concluded that the proposed project would not cast shadow on St. James Park, Paseo de San Antonio, Plaza de César Chávez, Plaza of Palms, or McEnery Park. Thus, the proposed project would not contribute to cumulative shadow impacts on these parks. The project-level shadow analysis did conclude that the proposed project would add new shadow to Guadalupe River Park, but that the project would not result in an increase in shadow on this park by more than the 10 percentage points, the threshold for significant and unavoidable shadow impacts. Cumulative projects with the potential to cast shadow on the Guadalupe River park include the following projects:

- South Almaden Offices (386 feet tall, refer to number 19 on Figure 3-1);
- Adobe building (246 feet tall, refer to number 28 on Figure 3-1).
- River Corporate Center (104 feet tall, refer to number 29 on Figure 3-1); and
- Platform 16 (91 feet tall, refer to number 36 on Figure 3-1).

Shadow from other cumulative projects shown on Figure 3-1 and listed in Appendix B would not reach the Guadalupe River Park. As such, shadow from all other cumulative projects would not combine with shadow from the proposed project to increase shading on the Guadalupe River Park, and these projects are not discussed further in this section.

A quantitative analysis of net new shadow on Guadalupe River Park was prepared for the cumulative projects listed above. The quantitative analysis determined that the maximum effect

of cumulative shadow would increase the area shaded by 5.3 percent of the park area, at 3 p.m. on the winter solstice. At the other times analyzed, the increase in the area of Guadalupe River Park shaded would range from 0.1 percent to 3.3 percent. Shadow cast by the proposed project, in combination with cumulative projects, would amount to less than 10 percent of the area of Guadalupe River Park at all times analyzed. These results are summarized in **Table 3.9-5**.

**TABLE 3.9-5
 SUMMARY OF CUMULATIVE SHADOW ON GUADALUPE RIVER PARK**

Guadalupe River Park ^a	Existing Shadow		Cumulative + Project Shadow		Change	
	Area (sf)	Percent of Park (%)	Area (sf)	Percent of Park (%)	Percent Increase (%)	Exceeds 10% Threshold?
March 21/September 21 (Spring Equinox)						
10 a.m.	384,713	3.3	566,181	4.9	1.6	No
12 p.m.	343,638	3.0	394,217	3.4	0.4	No
3 p.m.	364,014	3.1	509,735	4.4	1.3	No
June 21 (Summer Solstice)						
10 a.m.	351,926	3.0	495,559	4.3	1.3	No
12 p.m.	295,426	2.5	311,400	2.7	0.2	No
3 p.m.	331,453	2.9	370,870	3.2	0.3	No
December 21 (Winter Solstice)						
10 a.m.	516,398	4.5	895,933	7.7	3.2	No
12 p.m.	446,820	3.9	677,049	5.8	1.9	No
3 p.m.	524,880	4.5	1,141,522	9.8	5.3	No

NOTES:

sf = square feet

^a Guadalupe River Park has an area of 11,549,245 sf.

SOURCE: Integral Group, *Shadow Analysis: Impact on Major Parks*, using parks GIS mapping data from San José Parks, Recreation, and Neighborhood Services Department, June 26, 2020.

As described in Chapter 2, *Project Description*, the City Council directed Planning Division staff in March 2019 to develop new height limits for portions of Downtown—including the Diridon Station Area—to allow taller buildings than are currently permitted. Accordingly, the City is considering amendments to the DSAP to increase building heights based on review of the City’s 2018 analysis of heights that would be permitted pursuant to the FAA’s Terminal Instrument Procedures. DSAP parcels not included in the project site that would be subject to building height increases as part of the DSAP amendments include the Platform 16 development, which was included in Table 3.9-5, and a number of other parcels that would have their shadow subsumed by shadow from the proposed project because they are shielded from Guadalupe River Park by the project. Moreover, shadow from DSAP parcels that were not quantified as part of this analysis would not reach the Guadalupe River Park at any time during the year.

As required in the Downtown Strategy 2040 Plan EIR, development subject to increased building heights in the DSAP area and all other cumulative projects in Downtown San José would be required to prepare project-specific shade and shadow analyses to demonstrate that projects

would not result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area. Furthermore, in accordance with General Plan Policy CD-7.8, development adjacent to public open space and parklands would incorporate site and architectural design measures to minimize potentially negative shade and shadow impacts on the park or plaza space. Therefore, cumulative projects, in combination with the proposed project, would not result in a significant cumulative impact. This impact would be **less than significant**.

Mitigation: None required.

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