Draft Supplemental Environmental Impact Report

Block 8 Mixed Use Office

SCH# 2020029063, File# H19-033

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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SUMMARY

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (EIR) for the Block 8 project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts (including growth-inducing impacts and cumulative impacts), mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

This EIR tiers from the certified 2018 Final Environmental Impact Report for the Downtown Strategy 2040 (SCH# 2003042127) (Downtown Strategy 2040 FEIR) and certified 2011 Final Program Environmental Impact Report for the Envision San José 2040 General Plan (SCH# 2009072096) (General Plan FEIR) all of which are specifically incorporated by reference into this document, and an Initial Study was prepared to focus this EIR.

Summary of the Project

The approximately 1.5-acre project site, also known as Block 8, is located at 282 South Market Street, on the north side of West San Carlos Street between South Market and South First Streets. The project site is currently paved and used as a surface parking lot.

The project proposes to demolish and remove the existing surface parking lot and construct an up to 20-story (up to 295 foot tall with mechanical parapet) office mixed-use building with up to two levels of below ground parking. The total floor area of the building would be up to approximately 1,049,845 square feet. The building would include up to approximately 16,375 square feet of commercial uses on the ground floor, 627,210 square feet of office uses on the first floor and floors 8 through 19, and parking on floors 2 through 7.[1]

[1] The stated commercial and office square footages represent the leasable square footage and includes the area that can be occupied by tenants. The stated commercial and office square footages do not include elevator shafts or back of house/building equipment/maintenance space.

Summary of Significant Impacts and Mitigation Measures

The following table provides a summary of the potentially significant impacts and mitigation measures addressed within this EIR (including the Initial Study in Appendix A). A more detailed project description and discussion of impacts and mitigation measures is provided in Section 2.0 Project Information and Description and Section 3.0 Environmental Setting, Impacts, and Mitigation, as well as in the Initial Study included in Appendix A of this EIR. Alternatives to the proposed project are also summarized at the end of this section.

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measures**
Air Quality	
Impact AIR-1: Construction of the project would result in significant health risks to nearby sensitive receptors (i.e., cancer risk and annual $PM_{2.5}$). **(Same Impact as Approved Project [Less than Significant Impact])**	**MM AIR-1.1:** Prior to the issuance of any grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 93-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction may include, but is not limited to, the following: • All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement. • Install electric power during early construction phases to avoid use of diesel generators and compressors. • Stationary construction cranes (building cranes) shall be powered by electricity. • A majority or forklifts and aerial lifts used for interior construction shall be electric or propane/natural gas powered. The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building, and Code Enforcement (PBCE), or Director's designee, prior to the issuance of any demolition or grading permits.
Impact AIR-2: The health risk from the combination of project construction and operation sources would exceed the BAAQMD thresholds of significance for cancer risk and annual $PM_{2.5}$ of >10.0 per million and >0.3 $\mu g/m^3$, respectively.	**MM AIR-1.1** above **MM AIR-2.1:** Prior to issuance of building permits, the project applicant shall either (1) submit documentation by a qualified air quality consultant that demonstrates the equipment includes diesel particulate matter filters that achieve a minimum 85-percent reduction in particulate matter emissions to the Director of PBCE or Director's designee or (2) submit documentation by

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measures**
(Same Impact as Approved Project [Less than Significant Impact])	a qualified air quality consultant that has been reviewed and approved to the Director of PBCE, or Director's designee, demonstrating that the project generators will not increase lifetime cancer risk by 10 chances per million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures: • Placement of the equipment; • Placement and orientation of the exhaust stacks; • Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or • Limitation to the operation hours to less than 50 hours per year.
Impact AIR-3: The project would result in a significant cumulative community health risk impact (i.e., cancer risk and $PM_{2.5}$). **(Same Impact as Approved Project [Less than Significant Cumulative Impact])**	See mitigation measures MM AIR-1.1 and MM AIR-2.1.
Cultural Resources	
Impact CUL-1: The project would result in significant construction-vibration related impacts to nearby historic resources. **[Same Impact as Approved Project (Less than Significant Impact)]**	See mitigation measure MM NOI-3.1.
Impact CUL-2: The project would result in significant impacts to archaeological resources (if found on-site) during construction. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM CUL-2.1:** Prior to issuance of any grading or building permits, a qualified archaeologist shall complete a subsurface exploration commensurate with ground disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist trained in both local prehistoric and historic archaeology, who is also familiar with Hispanic-period features, land use patterns, and their cultural materials. To explore for the potential of Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed

Significant Impact	Mitigation Measures
	impacts, or until the soils and sediments are identified as reliably culturally sterile. If any ground disturbing activities are required for other environmental concerns or for potholing to identify previous utilities and their removal, an archaeological monitor shall be required at all times. If archaeological deposits or features appear potentially eligible to the CRHR are identified during any stage of exploration or monitoring, they shall be covered with a metal construction plate and an archaeological research design and work plan shall be prepared. This plan shall be approval by the Director of PBCE or Director's designee, before the archaeological deposits or features can be excavated. If unearthed, all features, archaeological deposits, and cultural material shall be excavated according to current archaeological standards detailed in the approved research design and treatment plan. All features, archaeological deposits, and cultural material shall be cleaned, analyzed, and evaluated for their eligibility to the CRHR. An archaeological report shall be prepared discussing methods, historical research (if appropriate), and documenting all finds. The report shall be submitted to and approved by the Director of PBCE or Director's designee. If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation. The applicant is fiscally responsible for the curation of all artifacts deemed archival by current archaeological standards at History San José, with the exception of any human remains and associated burial goods. The archaeologist shall prepare the artifacts and dietary remains in archival quality bags with artifact identification tags, provide two copies of a final artifact catalog for the items submitted, and two copies of the final archaeological report. Any other additional requirements by History San José must be addressed. Only when all of these mitigations are completed would the City and the applicant be in compliance with CEQA.

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measures**
Hazards and Hazardous Materials	
Impact HAZ-1: The potential of subsurface contamination on-site could create a hazard. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM HAZ-1.1:** If below ground parking is constructed, a Phase II Environmental Site Assessment meeting ASTM standards shall be performed by a qualified environmental professional prior to the issuance of any demolition, grading, or building permits. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above regulatory environmental screening levels and could impact construction worker safety or future site occupants, then the applicant must enter into the Site Cleanup Program with the Santa Clara County Department of Environment Health (SCCDEH). Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed office development. The Phase II results, and evidence of County oversight shall be submitted to the PBCE Director, the Director's designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to issuance of any demolition, grading, or building permits. **MM HAZ-1.2:** Prior to the issuance of any demolition, grading, or building permits, the project applicant shall have a qualified environmental professional prepare a Site Management Plan (or Waste Disposal Plan) to address the handling of impacted soils and groundwater during site development. The plan shall include the following elements: • Procedures for transporting and disposing the waste material generated during removal activities, • Procedures for stockpiling soil on-site, • Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities, • Confirmation soil sampling to verify achievement of remediation goals, • Procedures to ensure that fill and cap materials are verified as clean, • Truck routes, and/or • Staging and loading procedures and record keeping requirements. Impacted soils shall be appropriately characterized and transported off-site for disposal at a facility licensed to receive such waste and that contaminated groundwater is disposed of appropriately. Proof of proper disposal shall be submitted to the Director of Planning, or Director's designee, and the

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measures**
	Environmental Compliance Officer prior to issuance of a building permit.
Land Use	
Impact LU-1: The project would result in a new significant shade and shadow impact on Plaza de Cesar Chavez. **(New Significant Unavoidable Impact)**	There is no feasible mitigation proposed .
Noise	
Impact NOI-1: The mechanical equipment for the project has the potential to exceed 55 dBA DNL at adjacent noise-sensitive land uses. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM NOI-1.1:** Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment will not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a Building Permit.
Impact NOI-2: Project construction activities would result in significant construction noise impacts on nearby sensitive receptors. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM-NOI-2.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of PBCE, or Director's designee, prior to the issuance of any grading or demolition permits. As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

Significant Impact	Mitigation Measures
	• Limit construction truck traffic to truck routes and avoid sensitive land uses where feasible. Configure a traffic pattern on the project site to minimize truck backing movements. • The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the construction schedule, in writing, at least seven days prior to the beginning of construction. • Utilize "quiet" models of air compressors and other stationary noise sources where technology exists; • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment; • Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses; • Locate staging areas and construction material areas as far away as possible from adjacent land uses; • Prohibit all unnecessary idling of internal combustion engines; • Prepare and submit a construction noise mitigation plan that documents how construction noise from the 24-hour concrete pours would be minimized to reduce noise disturbance to affected residential uses from concrete pours occurring outside the standard construction hours of 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The plan shall include a Relocation Plan (described below). The plan shall be reviewed and approved by the Director of PBCE. • Prepare a Relocation Plan that describes the process to temporarily relocate residents at the Casa del Pueblo Residential Tower and St. Claire Apartments that have direct line of sight to the construction site for the duration of the 24-hour concrete pouring construction phase. The plan would describe the process to temporarily relocate residents, describe the alternative housing options, and describe the proposed timing of relocation. If said residents request relocation, the

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measures**
	applicant shall provide a copy of the Relocation Plan and implement the plan if requested; • A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling or temporary relocation. Noise control blanket barriers can be rented and quickly erected. • Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
Impact NOI-3: Project-related construction-vibration could result in significant impacts at nearby structures.	**MM NOI-3.1:** The project applicant shall implement the following measures during construction unless otherwise noted: • Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use. • Limit other vibration-inducing equipment to the extent feasible. • Prior to issuance of any demolition or grading permits, submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds. • Place operating equipment on the construction site as far as possible from vibration-sensitive receptors. • Use smaller equipment to minimize vibration levels below the limits. • Avoid using vibratory rollers and tampers near sensitive areas. • Select demolition methods not involving impact tools. • Modify/design or identify alternative construction methods to reduce vibration levels below the limits.

Significant Impact	Mitigation Measures
	• Avoid dropping heavy objects or materials. • Prior to issuance of demolition or grading permits, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during project construction activities. • A Historic Resources Protection Plan/Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after construction. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods and a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. A draft of the Historic Resources Plan portion shall be submitted to the Director of PBCE or Director's designee for review and approval prior to implementation of the plan. The plan shall include the following tasks: - Education and training of construction workers about the significance of the historic resources around which they would be working. - Guidelines for operating construction equipment adjacent to historic resources. - Identification of sensitivity to ground-borne vibration of the Four Point by Sheraton and Casa Del Pueblo Residential Tower. A vibration survey (described below) shall be performed by a qualified acoustical consultant, licensed historical architect, or licensed Professional Structural Engineer in the State of California. - Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures, per approval of the property owners. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures. - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-

Significant Impact	Mitigation Measures
	specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the General Plan, including General Plan Policy EC-2.3. - If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures. - Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to restore the character-defining features of the resources in a manner that does not affect the eligibility of the historic property as a historic resource. - The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Summary of Project Alternatives

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives analysis is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6).

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The project objectives are identified in Section 2.3 Project Objectives of this EIR. A summary of the project alternative evaluated in this EIR is provided below. Refer to Section 7.0 Alternatives for the full discussion of each alternative.

No Project Alternative

The CEQA Guidelines specifically require consideration of a "No Project" Alternative. The purpose of including a No Project Alternative is to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project. The CEQA Guidelines specifically advise that the No Project Alternative shall address both the existing conditions and "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services" (Section 15126.6(e)(2).

Under existing conditions, the site is developed and used as a parking lot. Therefore, under the No Project Alternative, the project site would remain as it is today. The No Project Alternative would avoid the project's impacts and would not meet any of the project objectives. Nor would it meet any of the City's goals and visions for the downtown, which include encouraging ambitious job and housing growth.[2]

Reduced Height Alternative

The purpose of the Reduced Height Alternative is to avoid the project's significant, unavoidable shade and shadow impact. In order to be below the City's threshold for a significant shade and shadow impact, the proposed building would need to be reduced in height from approximately 295 feet and 20 stories (including one mechanical level) to approximately 155 feet and 10 stories (including one mechanical level). As a result, the building's gross square footage would be reduced from approximately 1,049,845 to 466,140 square feet. Compared to the proposed project, the Reduced Height Alternative would result in a reduction of 10 stories (and approximately 140 feet in height) and an approximately 56 percent reduction in gross building square footage.

The Reduced Height Alternative would avoid the project's significant, unavoidable shade and shadow impact, as well as avoid or lessen all other impacts disclosed in the Initial Study (refer to Appendix A) and Downtown Strategy 2040 FEIR for the project. The alternative could meet five of

[2] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 25.

the eight project objectives. The alternative could meet objectives 1, 2, 5, 7, and 8; partially meet objectives 3 and 4; and would not meet objective 6. Nor would it meet the City's goals and visions for the downtown, which include encouraging ambitious job and housing growth.[3]

Areas of Concern

Environmental concerns from local residents, property owners, organizations, and/or agencies about the project include the following:

- Impacts to surrounding historic resources
- Impacts to nesting birds
- Impacts of project-generated traffic on roadway and freeway capacity

[3] Ibid.

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental EIR for the Block 8 project in compliance with CEQA and the CEQA Guidelines.

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

This EIR is a Supplemental EIR to the certified Downtown Strategy 2040 FEIR. The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy is necessary to: (1) respond to changed circumstances and conditions; and (2) increase the downtown development capacity to year 2040 consistent with the General Plan. The primary purpose of Downtown Strategy 2040 was to increase the development capacity within the downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with downtown development.

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

In accordance with CEQA Guidelines Section 15163(a), the lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

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

Based on the analysis of the proposed project included in the Initial Study (see Appendix A) and this document, only the discussion of the project's significant shade and shadow impact would be needed to supplement the discussion in the Downtown Strategy 2040 FEIR. For this reason, the City has prepared a Supplemental EIR for the project that addresses only that topic.

1.1.1 Tiering of the Environmental Review

In accordance with CEQA, this document will be a Supplemental EIR to the Downtown Strategy 2040 FEIR and tier from the Downtown Strategy 2040 and General Plan FEIRs. The CEQA Guidelines Section 15152 contains the following information on tiering an environmental document:

(a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the EIR or negative declaration solely on the issues specific to the later project.

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

1.1.2 Focusing the Supplemental EIR

The City of San José prepared an Initial Study for the project that determined that preparation of a Supplemental EIR was required. The analysis in the Initial Study tiers off the Downtown Strategy 2040 and General Plan FEIRs and concluded that the proposed project would result in the same or similar impacts as disclosed in the Downtown Strategy 2040 and General Plan FEIRs in regards to the following environmental resources:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

That is, the project would not result in new or substantially more severe significant impacts to those resources listed above than disclosed in the Downtown Strategy 2040 FEIR. The analysis also concluded that a Supplemental EIR should be prepared to evaluate the project's land use and

planning impact, particularly the project's shade and shadow impact. A copy of the Initial Study is included in Appendix A.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, state, and federal agencies on February 19, 2020. The standard 30-day comment period concluded on March 20, 2020. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on March 5, 2020 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held at Dr. Martin Luther King Jr. Library, Room 255 (second floor) located at 150 East San Fernando Street. Appendix B of this EIR includes the NOP and comments received on the NOP.

1.2.2 Draft EIR Public Review and Comment Period

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

City of San José
Department of Planning, Building, and Code Enforcement
Attn: Kara Hawkins, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor
San José, CA 95113
Kara.Hawkins@sanjoseca.gov

1.3 FINAL EIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

- Revisions to the Draft EIR text in the form of a first amendment, as necessary;
- List of individuals and agencies commenting on the Draft EIR;
- Responses to comments received on the Draft EIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft EIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency

approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 Notice of Determination

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office and available for public inspection for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094[g]).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

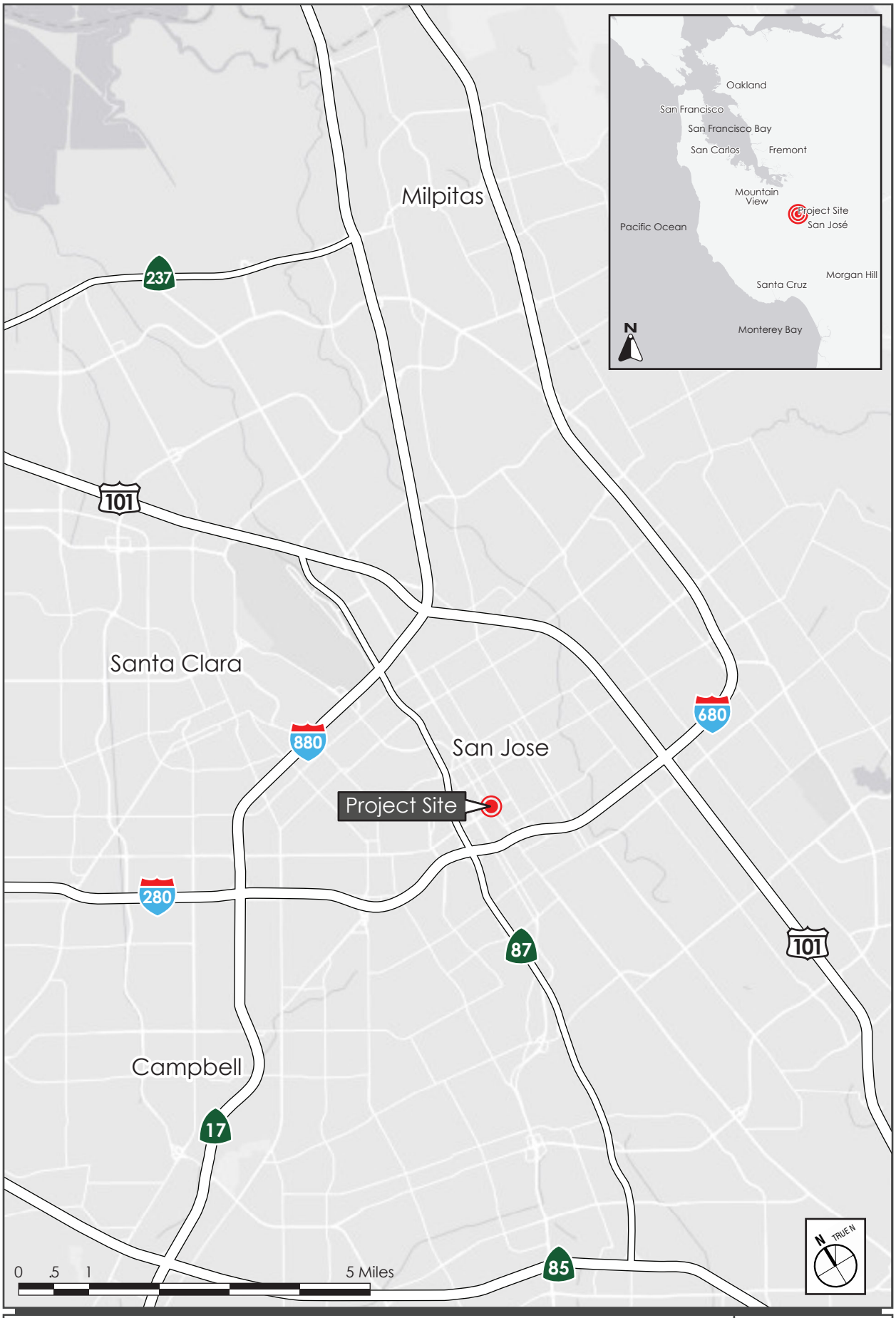
The approximately 1.5-acre project site (Assessor Parcel Number [APN] 259-42-080), also known as Block 8, and is located at 282 South Market Street, on the north side of West San Carlos Street between South Market and South First Streets. Vehicular access to the project site is provided via driveways on South Market Street and South First Street. Sidewalks are available on the project site frontages on South Market Street, West San Carlos Street, and North First Street.

The project site is currently paved and used as a surface parking lot. The northeastern portion of the site is available for use by the Four Points Sheraton Hotel, which is adjacent to the north of the project site. The remaining portion of the lot operates as a public, self-pay parking lot.

Surrounding land uses include commercial and residential uses to the north of the site, governmental office buildings to the east, commercial and residential uses to the south, and park uses to the west.[4]

Refer to Figure 2.1-1, Figure 2.1-2, and Figure 2.1-3 for a regional map, vicinity map, and aerial photograph of the project site.

[4] For ease of reference, South First Street is considered east of the site, West San Carolos Street is considered south of the site, and South Market Street is considered west of the site.



REGIONAL MAP | FIGURE 2.1-1

VICINITY MAP

FIGURE 2.1-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3

2.2 PROJECT DESCRIPTION

The project proposes to demolish and remove the existing surface parking lot and construct an office mixed-use building of up to 20-stories (up to 295 foot tall with mechanical parapet). The total floor area of the building would be approximately up to 1,049,845 square feet. The building would include up to approximately 16,375 square feet of commercial uses on the ground floor, 627,210 square feet of office uses on the first floor and floors 8 through 19, and parking on floors 2 through 7.[5] The project could include two levels of underground parking if the maximum amount of development identified is constructed.

Floor 17 would include an approximately 12,600-square foot "sky garden," which would consist of landscaping, seating and furniture and areas for casual dining and socializing. Similarly, floor 18 or 19 would include an up to approximately 10,550-square foot sky garden programmed the same way. Outdoor amenity areas are proposed on floor 1 (up to 1,105 square feet) and floor 8.

The parking facilities (below and above ground) and commercial space would be constructed with a ventilation system, and the below ground parking facilities would be equipped with a combination of water intrusion/soil vapor barriers below and behind the concrete building basement slab and sidewalks. The ventilation system and water intrusion/soil vapor barriers are proposed to reduce potential vapor intrusion into the proposed building (including the upper levels of office uses).

Vehicle access to the project would be provided via driveways on South Market Street and First Street. The driveway on Market Street would provide sole access to and from the proposed parking garage. The driveway on First Street would primarily provide access to and from the loading, trash, and back of house facilities. As part of the project, the existing 16-foot wide driveway curb-cut on First Street currently serving the project site would be widened to approximately 38 feet and the existing Four Points Hotel trash enclosure would be demolished and a new trash staging area serving the Four Points Hotel would be located further west within the drive aisle easement. The project includes gates between the parking garage entrance and the hotel trash staging area that would be typically closed to prevent vehicles from utilizing the First Street driveway. In the event traffic congestion along Market Street inhibits vehicles from entering or exiting using the Market Street driveway, the First Street driveway could be used as an alternative access point. The use of First Street as an ingress and egress point would be controlled by the building operator by opening gates east of the parking garage entrance.

Consistent with the City's parking requirements, the project would provide:

- 2.5 vehicular parking spaces per 1,000 square feet of office uses
- One bicycle parking per 4,000 square feet of office uses (with a minimum of 80 percent of short-term bicycle parking spaces and 20 percent long-term bicycle parking spaces)
- Two short-term bicycle and one long term bicycle parking space per retail space.

[5] The stated commercial and office square footages represent the leasable square footage and includes the area that can be occupied by tenants. The stated commercial and office square footages do not include elevator shafts or back of house/building equipment/maintenance space.

The project would also include a 80-foot long passenger loading zone on the west project frontage on Market Street. The loading zone would provide space for three to four vehicles to park. The proposed loading zone may require the removal of one existing on-street parking space.

Pedestrian access to the site would continue to be provided via sidewalks on South Market Street, West San Carlos Street, and South First Street.

There are 31 existing trees on-site or directly adjacent to the site. It is anticipated six, non-native London plane trees (two of which are ordinance-sized) would be removed as a result of the project.

A conceptual site plan and cross-section of the project are shown in Figure 2.2-1 and Figure 2.2-2.

2.2.1 Public Right-of-Way improvements

The proposed project would replace the sidewalks on South Market Street and West San Carlos Street, and plant four new street trees (honey locust) to match the existing trees on adjacent parcels along South Market Street.

2.2.2 Utility Improvements

The project requires connections to existing utilities in the area to serve the proposed commercial and office uses. The project includes new on-site water, sewer, and storm drain pipes which would connect to existing water, sewer, and storm drain mains/lines in the project area. The project also includes on-site features to treat stormwater runoff prior to discharge to the City's stormwater system. C3 guidelines dictate this project is a transit-oriented development (special project), and allows the use media filter system (MFS) units to treat up to 100 percent of the site.

2.2.3 Green Building and Transportation Demand Management Measures

Consistent with the City's Private Sector Green Building Policy, the commercial portion of the project would be designed to achieve, at minimum, Leadership in Energy and Environmental Design (LEED) Silver. The project would incorporate green building measures such as minimizing parking to encourage alternative forms of transportation, providing electric vehicle (EV) chargers for five percent of the parking stalls, utilizing low flow plumbing fixtures, incorporating submetering systems for energy and water, using all Light Emitting Diode (LED) lighting to minimize use of energy and use of mercury in light bulbs, and commissioning of the building to ensure the building performs as designed, to achieve the LEED requirements.

The project also includes Transportation Demand Management (TDM) measures to reduce single-occupancy vehicle trips such as on-site bicycle parking, carpool matching program, on-site car share service, and transit subsidies.

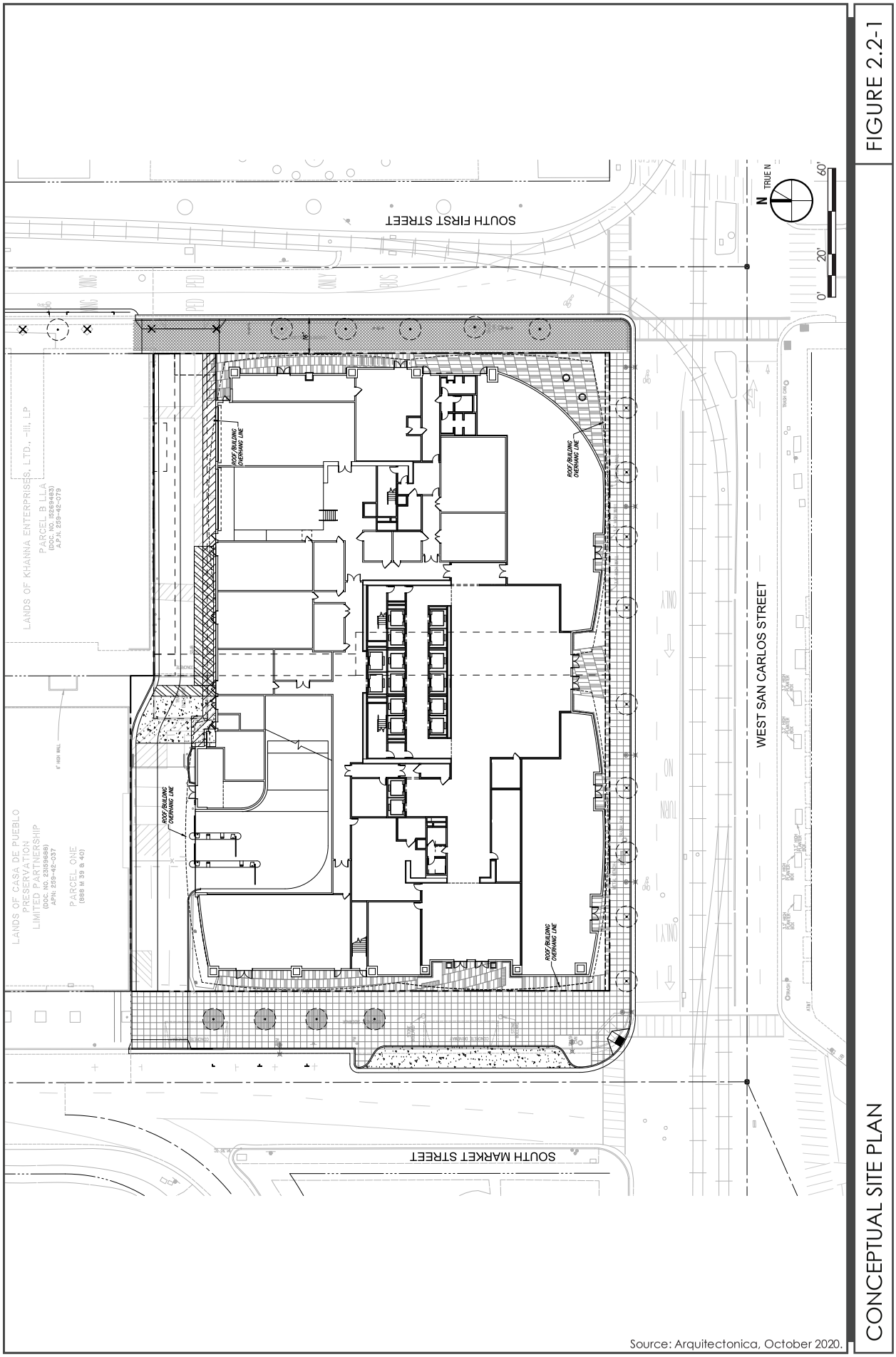
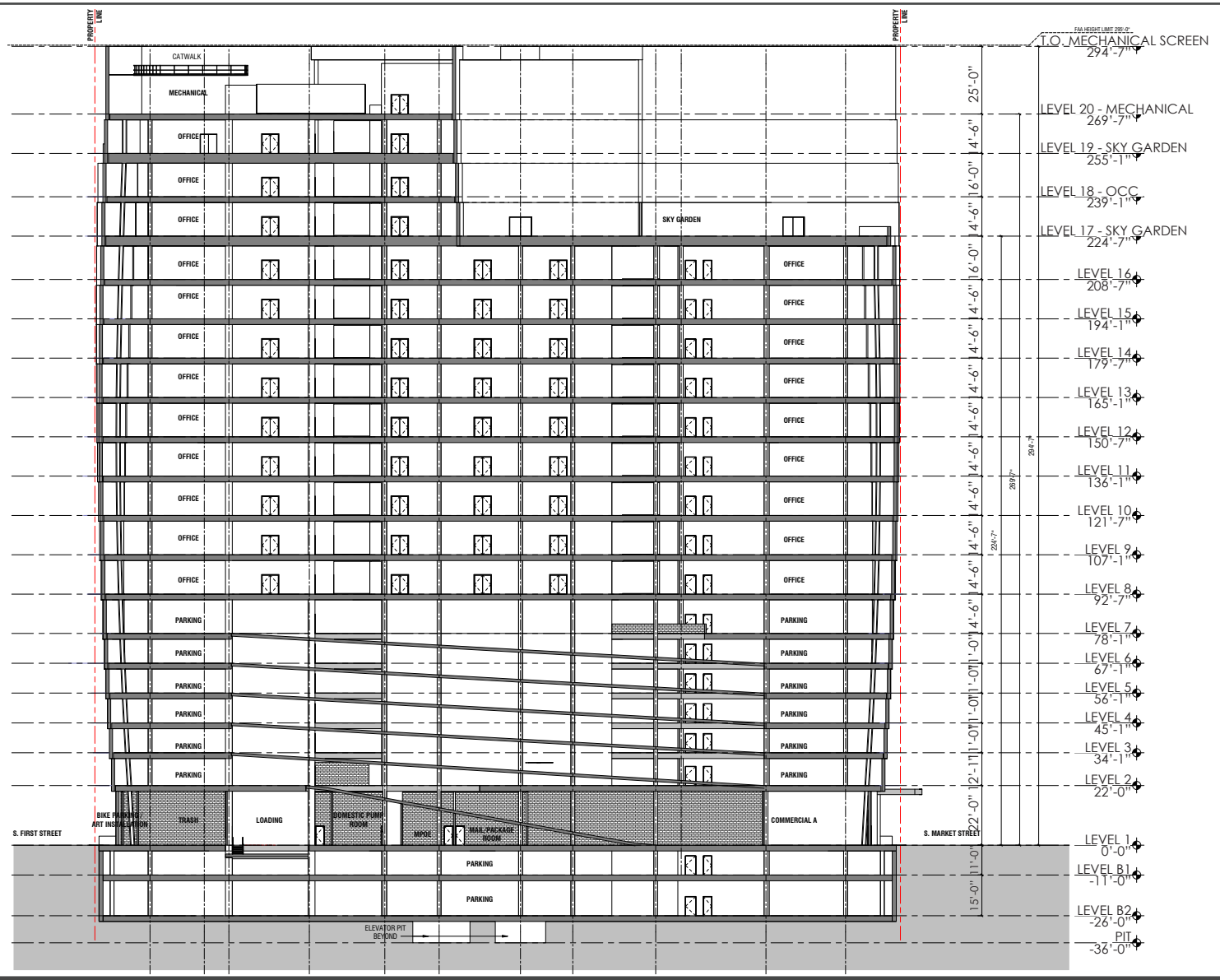


FIGURE 2.2-1

CONCEPTUAL SITE PLAN

Source: Arquitectonica, October 2020.



Source: Arquitectonica, November 6, 2020.

CONCEPTUAL CROSS-SECTION

FIGURE 2.2-2

2.2.4 Construction

Construction of the project is estimated to take approximately 34 months. Approximately 80,000 cubic yards of soil would need to be excavated and hauled off-site (at a maximum depth of 36 feet), and a crane of up to 350 feet tall would be used during construction. Project construction would occur within the allowable hours stipulated the City's Municipal Code, with the exception of 24-hour concrete pours. The project would have four separate 24-hour mat pours. Construction equipment would be staged on-site and on nearby private property upon mutual agreement.

2.3 PROJECT OBJECTIVES

The applicant's objectives for the project are as follows:

1. ICONIC ARCHITECTURE. Per the San José Downtown Design Guidelines and Standards the project site is a Gateway Site with an Image-Defining Frontage. Because of the prominence of the site, building design should be an elegant and iconic addition to the fabric of Downtown San José and its skyline. The new building would need to function as a single-use building with the largest floor plates possible to meet current market desires. A human scale should be brought to the building through innovative design, such as a shingled building skin which would divide the mass of the building.
2. ENHANCE DOWNTOWN. Contribute to the concept of a "complete neighborhood" and overall balance and mix of uses in Downtown San José by developing ground floor commercial uses in concert with office space above the ground floor. Provide pedestrian-oriented storefronts with transparent windows to activate the sidewalk appeal for pedestrians and other passers-by.
3. TRANSIT-ORIENTED DENSITY. Contribute to a transit-oriented and pedestrian oriented environment and be consistent with the San José Downtown Design Guidelines and Standards, including high-quality architectural design, pedestrian orientation, land uses and densities that generate high transit ridership near rail and bus stations, and vehicle trip reductions through transportation demand management.
4. Provide a building with the largest total square footage feasible and the largest floor plates feasible to meet current market desires and attract a single occupant user to the building.
5. Provide above grade parking to increase cost efficiency, lowering construction costs.
6. Utilize the allowable Federal Aviation Administration (FAA) height limit for the site (approximately 390 feet above mean sea level) to create a distinctive and iconic roofline in the San José skyline, attracting a premium tenant.
7. Provide a minimum parking ratio on site of one vehicle per 1,000 sf of office to meet the needs of the tenant while recognizing the City's goal to encourage increased ridership of public transit.
8. Provide public access along street frontages to commercial and lobby space on the ground floor to activate the street level of the building and connect to the surrounding neighborhood.

2.4 USES OF THE EIR

This EIR provides decision makers in the City of San José and the general public with relevant environmental information to use in considering the proposed project. It is proposed that this EIR be used for appropriate discretionary approvals necessary to implement the project, as proposed. These discretionary actions for the project are anticipated to include the following:

- Site Development Permit
- Tentative Map
- Demolition Permit
- Encroachment Permit
- Building Permit
- Grading Permit
- Other Public Works Clearances

Ministerial permits from the City, such as grading permits and building permits, would also be required.

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

This section presents the discussion of impacts related to and use and planning. The discussion for land use and planning includes the following subsections:

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

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

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Mitigation measures labeled as "Required Downtown Strategy 2040 FEIR Measures" in this document are measures required by the Downtown Strategy 2040 FEIR to reduce environmental impacts that are not City standard permit conditions or measures identified in technical reports completed for the project. Mitigation measures labeled as "Mitigation Measures" in this document are measures consistent with those identified and required of development in the Downtown Strategy 2040 FEIR and have also been identified in technical reports completed for the project.

  Additionally, "Standard Permit Conditions" and "Conditions of Approval" are also identified. "Standard Permit Conditions" are identified and are conditions the City typically requires of all development projects to comply with existing laws and regulations and "Conditions of Approval" are measures the City requires to address non-CEQA issues.

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

  The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130[b]). To accomplish these two objectives, the analysis should include either a list of past, present, and

probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130[b][1]). This EIR primarily uses projections from the adopted Downtown Strategy 2040. Specific cumulative projects were considered in the cumulative air quality analysis in the Initial Study (refer to Appendix A).

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

Impact discussions for the following environmental subjects are included in the Initial Study (see Appendix A) prepared for the project:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Because no new or substantially more severe impacts were identified for the above-listed environmental subjects, they are not further addressed in this EIR, but rather are addressed in the Initial Study included in Appendix A.

3.1 LAND USE AND PLANNING

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

Regional and Local

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

The Comprehensive Land Use Plan (CLUP) for Mineta San José International Airport, adopted by the Santa Clara County Airport Land Use Commission (ALUC) on May 25, 2011 and amended on November 16, 2016, is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and the aircraft occupants. The CLUP is also intended to ensure that surrounding new land uses do not affect the airport's continued operation.

Envision San José 2040 General Plan

Various policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use, as listed below.

General Plan Policies – Land Use	
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
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.
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.
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.
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.
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 prezoning proposals.

3.1.1.2 *Existing Conditions*

The project site has a General Plan land use designation of Downtown. This designation includes office, retail, service, residential, and entertainment uses in the downtown. Redevelopment should be at very high intensities, unless incompatibility with other major policies within the General Plan (such as Historic Preservation policies) indicates otherwise. The density allowed under this land use designation is up to 800 dwelling units per acre and a Floor Area Ratio (FAR) of 30.0 (three to 30 stories tall). All development within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership.[6] The site is zoned Downtown Primary Commercial (DC), which permits uses consistent with the Downtown General Plan land use designation including office and commercial/retail uses.

The project site is currently developed and used as a parking lot.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, would the project:

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

3.1.2.1 *Project Impacts*

a) Would the project physically divide an established community?

A physical division of an established community typically refers to the construction of a physical feature (such as a wall, roadway, or railroad tracks) or the removal of a means of access (such as a local roadway or bridge) that would impair mobility within an existing community or between communities.

The implementation of Downtown Strategy 2040 would generally continue to reinforce the existing land use patterns and development consistent with General Plan policies and design guidelines and would not physically divide the community.[7] The project would redevelop an existing surface parking lot with a new mixed-use office and commercial/retail building in downtown. The project does not include construction of physical features or propose the closure of an existing street that would impair mobility. For this reason, the project would not physically divide an established community. **(Same Impact as Approved Project [Less than Significant Impact])**

[6] City of San José. *Envisions San José 2040 General Plan.* November 1, 2011, amended December 18, 2018. Chapter 5, page 6.
[7] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Pages 207 and 208.

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The proposed office and commercial/retail uses are consistent with the existing General Plan and zoning designations for the project site. The project would construct an up to 20-story office and commercial/retail building with an FAR up to 16.2.[8]

As discussed in the Initial Study prepared for this project in Appendix A, the project is within the Airport Influence Area (AIA). As concluded in the Initial Study, the project would be compatible with the City's exterior noise standards for aircraft noise (refer to Section 4.13 Noise of the Initial Study in Appendix A) and the project shall obtain a FAA Determination of No Hazard prior to the development of the building to ensure the project would not result in an aviation hazard (refer to Section 4.9 Hazards and Hazardous Materials of the Initial Study in Appendix A). Pursuant to City and ALUC policy, the applicant would be required to grant an Avigation Easement over the project site as a condition of project approval. The recorded easement would provide for acceptance of aircraft noise and other effects of aircraft flyovers as well as elevation restrictions that allow for the currently proposed maximum building height of 295 feet above ground. The project, therefore, is consistent with the CLUP and the General Plan policies listed in Section 3.2.1.1 Regulatory Framework protecting air safety and avoiding aviation-related hazards.

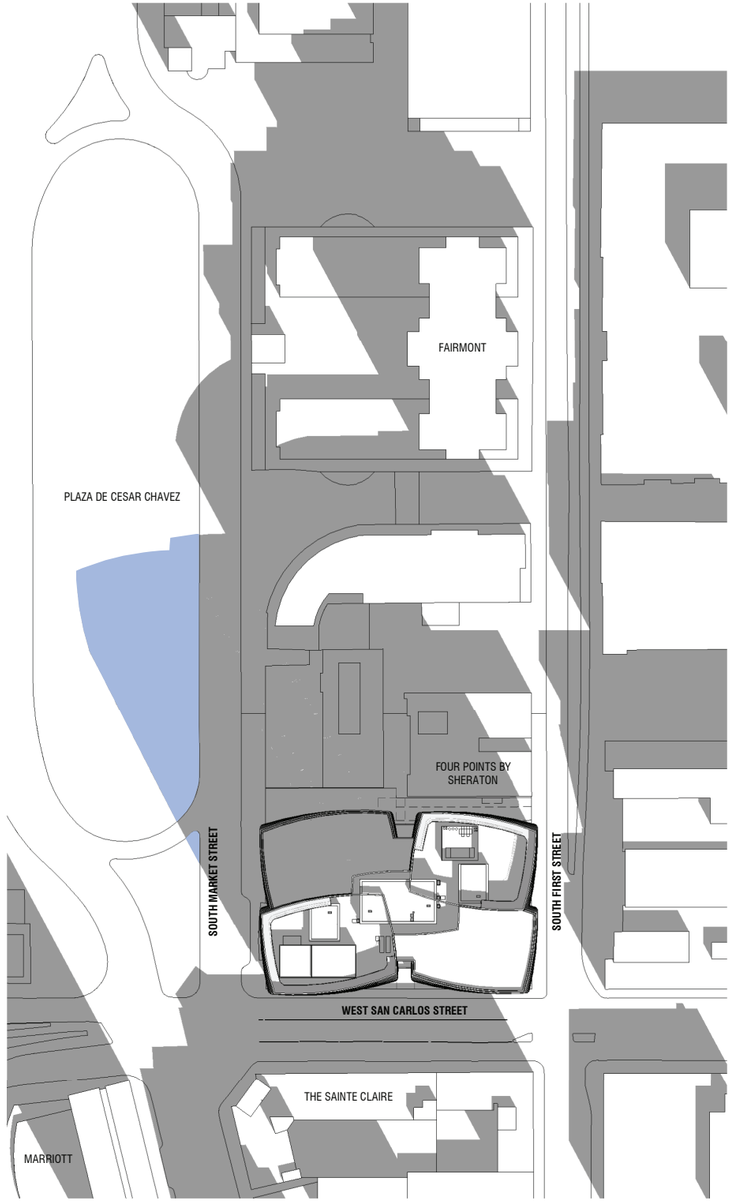
[Same Impact as Approved Project (Less than Significant Impact)]

c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?

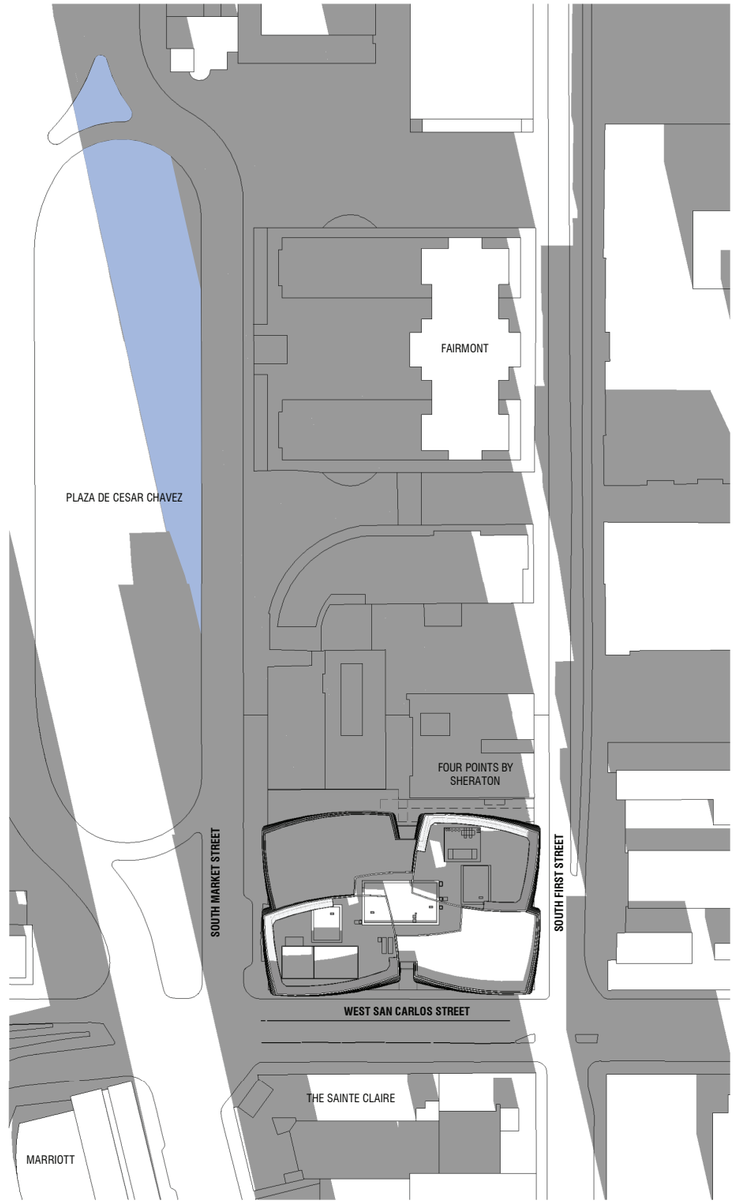
A shade and shadow study was completed for the project by Arquitectonica and is included in Appendix C of this EIR. The results of the study show that, given the proximity of the project site and height of building proposed, the project would result in a 10 percent or greater increase in shadow cast on Plaza de Cesar Chavez in the morning in the summer (for four hours from 6:00 AM to 10:00 AM), fall (for three hours from 7:00 AM to 10:00 AM), and winter (for two hours from 8:00 AM to 10:00 AM) (refer to Figure 3.1-1). No increase in shadow is expected during the noon and afternoon hours in the summer, fall, and winter.

[8] The total building square footage is estimated to be 1,049,840, and the site is approximately 1.485 acres (or 64,686.6 square feet). 1,049,840/64.686.6=16.2.

SUMMER SOLSTICE - 9:00 AM
PARK SHADOW COVERAGE INCREASED BY PROJECT: 16%



FALL/SPRING EQUINOX - 9:00 PM
PARK SHADOW COVERAGE INCREASED BY PROJECT: 19%



WINTER SOLSTICE - 9:00 AM
PARK SHADOW COVERAGE INCREASED BY PROJECT: 31%

N TRUE N

SCALE: 1 : 1800

Source: Arquitectonica, 7.29.2019

9AM SHADE AND SHADOW IMPACTS | FIGURE 3.1-1

Impact LU-1: The project would result in a new significant shade and shadow impact on Plaza de Cesar Chavez.

Mitigation Measure: There is no feasible mitigation proposed.

There is no feasible mitigation to reduce the project's increase in shadow on Plaza de Cesar Chavez. Reducing the height of the building would fundamentally change the project as proposed, would not meet the project objectives, and a low-density development on the project site is not consistent with the City's vision and goals for downtown, which include encouraging ambitious job and housing growth downtown.[9] For this reason, the project would result in a significant, unavoidable shade and shadow impact to Plaza de Cesar Chavez. This impact was not previously identified or disclosed in the Downtown Strategy 2040 FEIR. **(New Significant Unavoidable Impact)**

3.1.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative land use and planning impact?

The Downtown Strategy 2040 FEIR concluded build out of the downtown (including the proposed development), consistent with applicable General Plan policies and the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan), would not result in significant cumulative land use impacts. As discussed under checklist question b), the project is consistent with applicable General Plan policies. As discussed in Section 4.4 of the Initial Study included in Appendix A, the project shall conform with the Habitat Plan. For these reasons, the project would not result in a significant cumulative land use impact.[10] **(Same Impact as Approved Project [Less than Significant Cumulative Impact])**

[9] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 25.
[10] No other cumulative projects would contribute to the project's significant shade and shadow impact. The project, therefore, would not result in a significant cumulative shade and shadow impact.

SECTION 4.0 GROWTH-INDUCING IMPACTS

The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (Section 15126.2[d]). This section of the EIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacles to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The project is implementing a piece of a larger strategy plan for all of downtown and is consistent with planned growth in the Downtown Strategy 2040 (as well as the City's General Plan). The project site is located on an urbanized, infill site served by existing infrastructure (including roadways and utilities). The project would not require new or expanded infrastructure that would facilitate growth beyond what is already planned for the project area.

The Downtown Strategy 2040 FEIR concluded that, although the implementation of Downtown Strategy 2040 would not directly induce growth in the City beyond what is already planned in the City's General Plan, Downtown Strategy 2040 has the potential to indirectly induce growth outside of the City because it implementation (as well as the implementation of the City's General Plan) includes substantial new employment uses beyond the needs of the local workforce.[11] An indirect effect of that job growth would be inducing population growth elsewhere. The Downtown Strategy 2040 FEIR concluded that the implementation of the Downtown Strategy 2040 (which includes the proposed development) would contribute to the significant, unavoidable growth inducing impact identified in the General Plan FEIR.[12] **(Same Impact as Approved Project [Significant Unavoidable Impact])**

[11] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 339.
[12] Ibid.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

Pursuant to CEQA Guidelines Section 15126.2(d), an EIR must identify significant irreversible environmental changes that would be caused by the proposed project being analyzed. Significant irreversible changes include the 1) irreversible use of nonrenewable resources, 2) commitment of future generations to similar use, and 3) irreversible damage resulting from environmental accidents associated with the project.

5.1 IRREVERSIBLE USE OF NONRENEWABLE RESOURCES

As discussed in the Downtown Strategy 2040 FEIR, implementation of Downtown Strategy 2040 (which includes the proposed development), would require the use of nonrenewable resources during construction and operation of development projects (such as the proposed project). Nonrenewable resources used would include fossil fuels, metals, concrete, plastics, and water. Renewable resources, such as lumber and energy from renewable sources (e.g., solar and wind), would also be used.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The project would be constructed to minimum LEED Silver standards and would, as a result, use less energy for heat and light and less water than a standard design building. In addition, the site is an infill location currently served by public transportation and within walking distance of housing and services.

As concluded in the Downtown Strategy 2040 FEIR, the implementation of Downtown Strategy 2040 (which includes the proposed development) would not require the construction of major new lines to deliver energy and would represent a more efficient allocation of nonrenewable resources than other types or patterns of growth.[13]

5.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE

The project would be developed on a site that is currently developed and located within an urban area. Development of the project would commit resources to prepare the site, construct the building, and operate the building, but it would not result in development of undeveloped land.

As concluded in the Downtown Strategy 2040 FEIR, implementation of Downtown Strategy 2040 (which includes the proposed development) would revitalize the downtown by allowing higher density infill development on underutilized parcels, and such growth and revitalization would not commit future generations to changes in land use that are substantial.[14]

[13] Ibid. Page 340.
[14] Ibid.

5.3 IRREVERSIBLE DAMAGE FROM ENVIRONMENTAL ACCIDENTS

Without mitigation, irreversible changes to the physical environment could occur from accidental release of hazardous materials associated with development. Compliance with hazardous materials regulations and policies, and remediation of contamination, would reduce impacts to a less than significant level. As discussed in the Initial Study (refer to Appendix A), the project would not result in significant hazards or hazardous materials impacts.

The Downtown Strategy 2040 FEIR concluded that, other than the accidental release of hazardous materials, the activities occurring in the study area under the Downtown Strategy 2040 would be similar to those urban activities occurring in any large metropolitan area.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

As discussed in Section 3.1 Land Use, the project would result in a new significant, unavoidable shade and shadow impact.

The project would contribute to the significant, unavoidable impacts associated with the build out of the Downtown Strategy 2040. The Downtown Strategy 2040 FEIR disclosed that implementation of Downtown Strategy 2040 (which includes the proposed development) would result in significant, unavoidable air quality, historic resources, greenhouse gas emissions, noise, population and housing, and growth inducing impacts.[15]

[15] Ibid. Page 341.

SECTION 7.0 ALTERNATIVES

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives discussion is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6).

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts anticipated to occur if the project is implemented and try to meet as many of the project's objectives as possible. The CEQA Guidelines emphasize a common sense approach – the alternatives should be reasonable, "foster informed decision making and public participation," and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the "rule of reason" which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. An EIR is not required to consider alternatives which are infeasible.

The three critical factors to consider in selecting and evaluating alternatives are, therefore: (1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, (2) the project objectives, and (3) the feasibility of the alternatives available. These factors are discussed below.

7.1 FACTORS IN SELECTING AND EVALUATING ALTERNATIVES

7.1.1 Significant Impacts of the Project

As explained above, the CEQA Guidelines state that the alternatives analysis in an EIR should be limited to alternatives that are feasible and would avoid or substantially lessen any of the significant effects of the project and achieve most of the basic project objectives. In addition to those identified in previous environmental review documents, the project would result in one new, significant unavoidable impact to the environment: the project would result in an increase in shadow cast on Plaza de Cesar Chavez of up to 31 percent in the morning in the summer, fall, and winter. No increase in shadow is expected during the noon and afternoon hours in the summer, fall, and winter.

7.1.2 Project Objectives

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the basic objectives is considered relevant to their consideration. As identified in Section 2.3 Project Objectives, the applicant's objectives for the project are as follows:

1. ICONIC ARCHITECTURE. Per the San José Downtown Design Guidelines and Standards the project site is a Gateway Site with an Image-Defining Frontage. Because of the prominence of the site, the new building is designed to be an elegant and iconic addition to the fabric of Downtown San José and its skyline. The new building would need to function as

a single-use building with the largest floor plates possible to meet current market desires. A human scale is brought to the building through innovative design, such as a shingled building skin which would divide the mass of the building.

2. ENHANCE DOWNTOWN. The project contributes to the concept of a "complete neighborhood" and overall balance and mix of uses in Downtown San José by developing ground floor commercial uses in concert with office space above the ground floor. New pedestrian-oriented storefronts with transparent windows will activate the sidewalk appeal for pedestrians and other passers-by.
3. TRANSIT-ORIENTED DENSITY. The project is transit-oriented and pedestrian oriented and is consistent with the San José Downtown Design Guidelines and Standards, including high-quality architectural design, pedestrian orientation, land uses and densities that generate high transit ridership near rail and bus stations, and vehicle trip reductions through transportation demand management.
4. Provide a building with the largest total square footage feasible and the largest floor plates feasible to meet current market desires and attract a single occupant user to the building.
5. Provide above grade parking to increase cost efficiency, lowering construction costs.
6. Utilize the allowable FAA height limit for the site (approximately 390 feet above mean sea level) to create a distinctive and iconic roofline in the San José skyline, attracting a premium tenant.
7. Provide a minimum parking ratio on site of one vehicle per 1,000 square feet of office to meet the needs of the tenant while recognizing the City's goal to encourage increased ridership of public transit.
8. Provide public access along street frontages to commercial and lobby space on the ground floor to activate the street level of the building and connect to the surrounding neighborhood.

7.1.3 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law interpreting CEQA and the CEQA Guidelines have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines state that such factors can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

7.2 PROJECT ALTERNATIVES

7.2.1 Project Alternative Considered But Rejected for Further Analysis

Pursuant to CEQA Guidelines Section 15126.6(a), an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project. An alternative site may be considered when impacts of the project might be avoided or substantially lessened, and the project proponent can feasibly attain control of the site. Only alternative locations that would avoid or substantially lessen any of the impacts of the project and meet most of the basic project objectives need to be considered for inclusion in the EIR (CEQA Guidelines Sections 15126.6[f] and 15126.6[f][2][A]).

An alternative location for the project would need to: avoid or substantially lessen the project's significant, unavoidable shade and shadow impact; be of similar size to the project site; have the appropriate General Plan land use designation; and be under the control of the applicant.

Block 3, an approximately 1.3-acre site under the control of the applicant south of East San Fernando Street between South Second and South Third Streets (APN 467-22-160), is not located near any of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park) identified in the City's shade and shadow significance threshold. In addition, Block 3 is of similar size to the approximately 1.5-acre project site (Block 8) and has the same General Plan land use designation of Downtown as the project site. For these reasons, the City considered an alternative location for the project on Block 3.

An alternative location for the project on Block 3, however, is not feasible because the City's goals and vision are to encourage ambitious growth downtown (which includes both Blocks 3 and 8) and avoiding redevelopment of Block 8 in favor of Block 3 (or any other alternative site) would not meet the City's goals and vision. Further, because the City's General Plan and zoning development standards allow development on Block 8 at the density proposed by the project, the development of Block 3 instead would avoid the project's impacts in the short term, but likely not ultimately avoid the development of Block 8 at the same or a similar density. In other words, if the project were instead constructed on Block 3, another similar development to the one proposed would be reasonably foreseeable on Block 8. Both Block 3 and Block 8 have been identified as suitable locations to meet the City's need for more intensive development. Because this policy decision was made when the City's General Plan was adopted, a specific development proposal need not trigger ad hoc reconsideration of this policy.[16] For these reasons, an alternative location was considered but rejected for further analysis.

Further, case law interpreting CEQA Guidelines Section 15126.6(a), supports the conclusion that an EIR need not include a potentially feasible alternative location in every instance, based on the rule of reason and considerations of feasibility.[17] In addition, no statutory provision in CEQA expressly require a discussion of alternative project locations.

[16] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 C3d 553.
[17] California Native Plant Society v City of Santa Cruz (2009) and Mira Mar Mobile Community v City of Oceanside (2004)

7.2.2 Selected Alternatives

7.2.2.1 *No Project Alternative*

The CEQA Guidelines specifically require consideration of a "No Project" Alternative. The purpose of including a No Project Alternative is to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project. The CEQA Guidelines specifically advise that the No Project Alternative shall address both the existing conditions and "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services" (Section 15126.6(e)(2).[18]

Under existing conditions, the site is developed and used as a surface-level parking lot. Therefore, under the No Project Alternative, the project site would remain as it is today.

Comparison of Environmental Impacts

The No Project Alternative would avoid the project's significant, unavoidable shade and shadow impact, as well as avoid all other impacts disclosed in the Initial Study (refer to Appendix A).

Relationship to Project Objectives

The No Project Alternative would not meet any of the project objectives because it would not: develop a new building with iconic architecture; include ground floor commercial uses with office uses on the upper floors; include land uses that generate high transit ridership; or utilize the allowable FAA height limit for the site.

Conclusion

The No Project Alternative would avoid the project's impacts and would not meet any of the project objectives. Nor would it meet any of the City's goals and visions for the downtown, which include encouraging ambitious job and housing growth.[19]

7.2.2.2 *Reduced Height Alternative*

The purpose of the Reduced Height Alternative is to avoid the project's significant, unavoidable shade and shadow impact. In order to be below the City's threshold for a significant shade and shadow impact, the proposed building would need to be reduced in height from approximately 295 feet and 20 stories (including one mechanical level) to approximately 155 feet and 10 stories (including one mechanical level). As a result, the building's gross square footage would be reduced from approximately 1,049,845 to 466,140 square feet. Compared to the proposed project, the Reduced Height Alternative would result in a reduction of 10 stories (and approximately 140 feet in height) and an approximately 56 percent reduction in gross building square footage.

[18] The project as proposed is an example of what would reasonably be expected to occur under the current General Plan and consistent with available infrastructure and community services. The impacts of the proposed project are discussed in this EIR and the Initial Study included in Appendix A.
[19] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 25.

Comparison of Environmental Impacts

The Reduced Height Alternative would avoid the project's significant, unavoidable shade and shadow impact, as well as avoid or lessen other impacts (i.e., impacts to air quality, noise, public services, recreation, transportation, and utilities and service systems) disclosed in the Initial Study (refer to Appendix A) and Downtown Strategy 2040 FEIR for the project because the site would not be developed as intensely under this alternative as under the proposed project.

Relationship to Project Objectives

The Reduced Height Alternative could meet project objective 1 by constructing a new building with iconic architecture, objectives 2 and 8 by constructing a pedestrian-oriented building with ground floor commercial uses and office uses on the upper floors, objective 5 of providing above grade parking, and objective 7 by providing a parking ratio of one vehicle per 1,000 square feet of office.

The Reduced Height Alternative would partially meet objective 3 by constructing a high-quality, pedestrian-oriented building near transit although the density and transit ridership would not be as great as the proposed project. The alternative would also partially meet objective 4 by providing large floor plates but would not provide the largest total square footage feasible (because the project proposes a larger total square footage).

The Reduced Height Alternative would not meet project objective 6 of utilizing the allowable FAA height limit on the site, which is estimated to be between approximately 262 and 362 feet.[20] The Reduced Height Alternative would construct a building 155 feet tall, which is more than 100 feet below the FAA height limit on the site.

Conclusion

The Reduced Height Alternative would avoid the project's significant, unavoidable shade and shadow impact, as well as avoid or lessen all other impacts disclosed in the Initial Study (refer to Appendix A) and Downtown Strategy 2040 FEIR for the project. The alternative could meet five of the eight project objectives. The alternative could meet objectives 1, 2, 5, 7, and 8; partially meet objectives 3 and 4; and would not meet objective 6. Nor would it meet the City's goals and visions for the downtown, which include encouraging ambitious job and housing growth.[21]

[20] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Santa Clara County, Norman Y. Mineta San José International Airport.* Adopted May 25, 2011, amended November 16, 2016. Figure 6.
[21] City of San José. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018. Page 25.

7.2.2.3 *Environmentally Superior Alternative*

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project Alternative because it would avoid all of the project's significant environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, in addition to the No Project Alternative, the Reduced Height Alternative is the environmentally superior alternative because it avoids the project's significant, unavoidable shade and shadow impact and would lessen impacts to other environmental resources (i.e., air quality, noise, public services, recreation, transportation, and utilities and service systems) compared to the project given the reduced amount of development that would be constructed under this alternative.

SECTION 8.0 REFERENCES

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

Arquitectonica. *Shadow Study Exhibit.* July 29, 2019.

City of San José. *Envisions San José 2040 General Plan.* November 1, 2011, amended December 18, 2018.

---. *Initial Study for the Block 8 Project.* November 2020.

---. *Integrated Final EIR Downtown Strategy 2040.* SCH# 2003042127. December 2018.

---. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011.

PES Environmental, Inc. *Phase I Environmental Site Assessment, Black 3 Phase II – San Antonio Plaza Development, 150 South 2nd Street/143 South 3rd Street, San José, California.* February 5, 2019.

Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Santa Clara County, Norman Y. Mineta San José International Airport.* Adopted May 25, 2011, amended November 16, 2016.

SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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SECTION 10.0 ACRONYMS AND ABBREVIATIONS

AIA	Airport Influence Area
ALUC	Airport Land Use Commission
APN	Assessor Parcel Number
CEQA	California Environmental Quality Act
CLUP	Comprehensive Land Use Plan
EIR	Environmental Impact Report
EV	electric vehicle
FAA	Federal Aviation Administration
FAR	Floor Area Ratio
FEIR	Final Environmental Impact Report
LEED	Leadership in Energy and Environmental Design
LID	Light Emitting Diode
MFS	Media Filter System
NOD	Notice of Determination
NOP	Notice of Preparation
VMT	Vehicle Miles Traveled