Supplemental Environmental Impact Report

Marriott Townplace Suites

C19-051 & H19-053

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

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PROJECT OVERVIEW

The 0.6-acre project site is developed with two commercial buildings, a tank house, a mixed-use building, a duplex, and a single-family residence, totaling approximately 26,233 square feet. The project proposes to demolish the existing buildings to redevelop the site with an eight-story Marriott hotel building with up to 175 rooms.

The project proposes a total of 117 parking spaces within an on-site parking garage with one ground-floor level and two above-ground levels (second and third floors).

SUMMARY OF SIGNIFICANT IMPACTS

The following table summarizes the significant effects and mitigation measures addressed within this SEIR (including the Initial Study in Appendix A). The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Project Information and Description* and *Section 3.0 Environmental Setting, Impacts, & Mitigation*.

Significant Impacts	Mitigation and Avoidance Measures
Air Quality	
Impact AIR-1: Construction activities associated with the proposed project would expose infants near the project site to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk > 10.0 and PM2.5 concentration >0.3). **(Significant Impact)**	**MM AIR-1.1:** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement that includes specifications of the equipment to be used during construction and that outlines how the mitigation measure will be achieved. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below. • For all construction equipment larger than 25 horsepower operating on-site for more than two days continuously or 20 hours total, use equipment that meets U.S. Environmental Protection Agency (EPA) Tier 4 particulate matter emissions standards. • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two days continuously or 20 hours total shall use equipment that 1) meet the U.S. EPA emission standards for Tier 3 engines and include CARB-certified Level 3 Diesel Particulate Filters or equivalent that together

	achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment (e.g., non-diesel) that would meet this reduction requirement. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, air compressors, and concrete/industrial saws. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**
Biological Resources	
Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, displacement of nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**	**MM BIO-1.1:** Construction activities, such as tree removals and grading, shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive. The applicant shall submit a written statement to the Director of Planning, Building and Code Enforcement or the Director's designee indicating whether the nesting season would be avoided. If the nesting season cannot be avoided, then the applicant shall be required to implement MM BIO-1.2. **MM BIO-1.2:** If tree removals and construction cannot be scheduled outside of the nesting season between September 1st and January 31st, inclusive, a qualified ornithologist shall complete pre-construction surveys to identify active raptor or other migratory birds' nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the

	ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction. Prior to approval of any ground disturbance activity, including issuance of any tree removal, grading, or building permit (whichever comes first), the applicant shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**
Cultural Resources	
Impact CUL-1: Implementation of the proposed project would result in the demolition of two historic structures, that are eligible for Candidate City Landmark status, the mixed-use building at 497-499 W. San Carlos Street and the tankhouse on the project site. **(Significant Impact)**	**MM CUL-1.1:** Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps, actions, and documents have been satisfied for each historic structures in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants. Documentation (HABS): The structures and associated features on the project site shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for

	Architectural and Engineering Documentation and shall consist of the following components: A. Drawings – Prepare sketch floor plans of the buildings and site plan. B. Photographs – 35 mm digital photographs meeting the digital photography specifications. C. Written Data – a historical report with the history of the property, property description and historical significance. A qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data. The documentation shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer. **MM CUL-1.2:** Documentation (Digital Scans): Prior to issuance of any certificates of occupancy, the structures and associated features on the project site shall be documented by a qualified architectural historian through a series of digital scans and video production. The architectural historian shall meet the Secretary of the Interior's Professional Qualification Standards. A plan of the proposed procedures for the digital scans shall be submitted to the City's Historic Preservation Officer or equivalent prior to commencement of preparing the digital scans for review and approval. **MM CUL-1.3:** Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to

	advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. If the project applicant or third party agrees to relocate the structures, the following measures must be followed: 1. The Director of Planning, Building and Code Enforcement or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building. 2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the mixed-used building and the associated tankhouse structure prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. 3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move. 4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves

	the integrity of the building for the long-term preservation and reuse. Upon completion of the repairs, a qualified architectural historian shall document and confirm that work to the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the relocation, repair, and reuse. **MM CUL-1.4:** Salvage: If the project applicant and/or a third party cannot agree to relocate any of the four structures within the specified time, the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials prior to the issuance of any demolition permits. The time frame available for salvage shall be established by the City's Historic Preservation Officer in accordance with the Action Plan. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. **MM CUL-1.5:** Deconstruction/Reverse Construction: Prior to and during demolition activities, all structures and associated features being salvaged and demolished shall be documented, photographed, and videoed by a qualified architectural historian showing in reverse the original methods of construction and use of materials. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**
Hazards and Hazardous Materials	
Impact HAZ-1: Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and expose construction workers and nearby land uses. **(Significant Impact)**	**MM HAZ-1.1:** Prior to issuance of any grading or excavation permits, the project applicant shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall

	include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel. The SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer for review and approval prior to issuance of grading or excavation permits. **MM HAZ-1.2:** If the contaminated materials are planned to be capped during construction by site improvements (landscape beds, buildings, pavements, turf sections, etc.), it should be included in the SMP or similar document, for the approval under the regulatory oversight of the SCCDEH. If the contaminated soils are planned to be removed from the site, these shall be hauled off-site and disposed of at a licensed hazardous materials disposal site in accordance with applicable regulatory requirements. Capped areas (if and as included in the SMP) will require institutional controls which may include a deed restriction for the affected areas and an operations and maintenance (O&M) Plan. The O&M plan shall be provided to SCCDEH for approval and the approved O&M plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer, prior to any demolition, grading permits or ground disturbing activities. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
Noise	
Impact NOI-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of	**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies

residential and commercial uses. **(Significant Impact)**	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 logistics plan shall be prepared by a qualified acoustics professional. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to respond to noise complaints from neighbors. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading or demolition permits. As part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices: • Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. • 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 sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. • Prohibit all unnecessary idling of internal combustion engines. • Control noise from construction workers' radios to a point where they are not audible

	at existing residences bordering the project site. • Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. • If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. • A "noise disturbance coordinator" shall be designated to respond to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and include it in the notice sent to neighbors regarding the construction schedule. **[Same Impact as Approved Project (Less Than Significant Impact)]**
Impact NOI-2: Construction activity associated with the proposed project may impact adjacent structures within 12 feet for the project site. **(Significant Impact)**	**MM NOI-2.1:** The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures: • Limit the use of vibratory rollers and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site.

	• 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. • Select demolition methods not involving impact tools • Avoid dropping heavy objects or materials near vibration sensitive locations. • 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.) shall be submitted 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 required for continuous vibration monitoring. • A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks: o Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the site. A vibration survey (generally described below) would need to be performed. o Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the site. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural

	elements in the interior and exterior of the structure. o Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. o The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will 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 will be included together with proper documentation supporting any such claims. o 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. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

SUMMARY OF ALTERNATIVES

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain the most basic objectives of the project but avoid or substantially lessen many of the significant environmental effects of the project," or would further reduce impacts that are considered less than significant with the incorporation of identified mitigation. As detailed in the table above, the significant impacts of the project occur during construction and affect air quality, biological resources, hazards and hazardous materials, and noise. The project would result in the demolition of structures eligible for consideration as candidate City Landmarks resulting in a significant and unavoidable impact to cultural resources. The alternatives have been developed to reduce one or more of the significant impacts of the proposed project.

The following is a summary of the project alternatives evaluated in this EIR. Please refer to *Section 7.0, Alternatives* for additional detail regarding these alternatives.

Project Objectives

The objectives of the project are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan, Downtown Strategy 2040 and Diridon Station Area Plan by locating commercial (and hotel) development on a downtown site within a designated Urban Village.
2. Create a modern hotel project to compliment office development underway in downtown San José, and meet the significant anticipated future demand from adjacent tech campus development.
3. Support San Jose's Environmental Stewardship goals by providing a LEED Silver-equivalent building (and SJ REACH Code compliant) with sustainable energy and water usage, natural ventilation, EV parking, and reduced carbon footprint. This also includes addressing soils conditions across the entire site, in accordance with local regulations.
4. Add economic development growth in a transit-centric location served by various modes of public transportation such as bikeways, VTA light rail and buses, and planned BART extension, and generate ongoing "Transient Occupancy Tax" revenue.
5. Construct and upgrade public facilities, such as sidewalks and infrastructure to be consistent with City policies and planning documents.

No-Project – No Development Alternative

The No-Project – No Development Alternative would retain the existing on-site uses and would avoid the project's significant impacts to air quality, biological resources, cultural resources, hazards and hazardous materials, and noise; however, this would not meet any of the project objectives.

No Project - Redevelopment with No Rezoning Alternative

The No Project - Redevelopment with No Rezoning Alternative assumes that the site would not be developed with the proposed hotel project and that the project site would retain its existing *LI – Light Industrial* land use designation. Assuming that any future projects proposed on the site would attempt to maximize development, construction air quality and noise impacts would be comparable or greater compared to the proposed project because the length of construction and amount of grading would likely be similar. Additionally, other impacts associated with biological resources, loss of historic resources, and soil contamination impacts would remain the same at the proposed project assuming the future development on site requires full demolition and tree removal/grading of the site.

Preservation Alternative 4 - Preservation of All Historic Structures On-site

Preservation Alternative 4 - Preservation of All Historic Structures on-site, proposes to preserve the garage tankhouse and mixed-use property with a single-family residence, which were identified as eligible for consideration as Candidate San José City Landmarks. The proposed hotel building would be constructed on the remaining site area and would be constructed to the same height as the proposed project. The preservation of structures on site would reduce the developable square footage by 46,430 square feet, which reduces the number of hotel rooms by 73 and parking by 43 spaces. This alternative would not be the most efficient use of space on the site. Preserving the historic

structures would result in the need for the driveway to be located between the existing corner store and tankhouse, or to San Carlos Street. The distance between the intersection and the driveway on Josefa Street would be approximately 83 feet which is inconsistent with the City's distance standard for safety (150 feet) that would need to be maintained from the intersection. The driveway could be located on San Carlos Street, but the street frontage of the project site on San Carlos Street is approximately 160 feet. With the City's driveway width requirement of 26 feet, there would not be sufficient frontage to maintain 150 feet of site distance from the intersection.

It is reasonable to assume that the construction air quality and noise impacts would be reduced compared to the proposed project as it would be a smaller project and preservation of both the existing historic structures would result in less demolition on the site. Biological impacts would be similar to the proposed project and the significant impact on historic resources would be avoided. This alternative would not fully satisfy project objective 3 and would be required to reuse the historic structures and any new construction would have to comply with the City's Historic Design Guidelines to ensure compatibility with the historic structures.

Preservation Alternative 5 - Preservation of Tankhouse On-Site

Preservation Alternative 5 - Preservation of Tankhouse on-site, proposes to retain only the tankhouse and attached garage structure on-site for adaptive reuse. This would reduce the developable space on-site by approximately 35,438 square feet, which equates to 40 hotel rooms and 65 parking spaces. Keeping the tankhouse structure would either require the access point for the project to be relocated or would require the tankhouse to be moved elsewhere.

The noise, air quality, and biological impacts for the project would remain similar to the proposed project due to the similar timeframe and magnitude of demolition and construction. Although the tankhouse would be retained on-site, the other historic mixed-use building would be demolished so the impact to historic structures while reduced compared to the proposed project, would remain significant and unavoidable under this alternative. The alternative would not meet project objective 3, however the project's impacts from demolition of historic structures would be reduced.

Preservation Alternative 6 - Preservation of Mixed-Use Building On-Site

Preservation Alternative 6 - Preservation of Mixed-Use Building on-site, would retain the corner mixed-use building in its current location on-site for reuse. This would reduce the developable space on-site by approximately 30,154 square feet, which equates to 38 hotel rooms and 41 parking spaces. Preservation of the historic structure would not alter access to the project, but it would decrease corner frontage area.

It is reasonable to estimate that the construction air quality and noise impacts would be reduced compared to the proposed project because preservation of this historic structure would result in less demolition on the site. The biological resource impacts would remain the same as the proposed project because the timeframe and magnitude of demolition and construction activities would be similar. Although the impact on historic resources would be reduced by preserving the mixed-use structure, the historic resources impacts would be significant and unavoidable due to the demolition of the other historic structure. The alternative would not meet project objective 3 due to the retention

of the historic structure, but the impacts to construction noise and air quality would be reduced by the alternative.

AREAS OF KNOWN CONTROVERSY

Section 15123 of the State CEQA Guidelines requires the summary section of a Draft EIR to identify areas of controversy known to the Lead Agency, including issues raised by agencies and the public. Area of public concern include:

- Loss of historic structures on-site
- Aesthetic impact of the project's design and landscaping in relation to the surrounding community.
- Cumulative traffic impact of the project as part of the Diridon Station Area Plan.

The comment letters received in response to the Notice of Preparation are included in Appendix K of this document. All substantive environmental issues raised in the Notice of Preparation comment letters have been addressed in this Draft EIR.

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) for the Marriott Townplace Suites Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulation and policies of the City of San José.

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

This SEIR tiers from the Downtown Strategy 2040 FEIR because the project was included in the overall development that was analyzed for that document at a program level. Subsequent CEQA documentation was required because project-specific information was not available at the time the Downtown Strategy 2040 FEIR was prepared. An SEIR is required for this project because there is a significant and unavoidable impact to a potentially historic resource . The SEIR evaluation process is the same as the EIR process as outlined below.

1.1.1 Downtown Strategy 2040

On December 18, 2018, the City Council certified the Downtown Strategy 2040 FEIR (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the Downtown area. The Downtown Strategy 2040 has a development capacity of 14,360 dwelling units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The proposed 175 hotel rooms would help to accomplish the City's goal of providing more hotel rooms to support the commercial development occurring within the Downtown area. 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. All other environmental impacts were evaluated at a program level.

The project site is currently developed and is located within the boundaries of the Diridon Station Area Plan (DSAP). The Downtown Strategy 2040 project area includes a large portion of the DSAP, which was adopted in 2014. The Downtown Strategy 2040 Plan includes and integrates the following detailed plans and programs, including, but not limited to: the Downtown Strategy 2000 FEIR, the 2040 General Plan FEIR (2040 General Plan FEIR), and the DSAP FEIR to the extent possible

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 SEIR provides that subsequent project-level environmental review.

1.1.2 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, State, and federal agencies on September 8, 2020. The standard 30-day comment period concluded on October 9, 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 also held a public scoping meeting on September 24, 2020 to discuss the project and solicit public input as to the scope and content of this SEIR. The meeting was held live via Zoom virtual conference platform. Appendix J of this EIR includes the NOP and comments received on the NOP. A brief summary of relevant comments that were received during the scoping period is included at the beginning of each resource discussion.

1.1.3 Draft SEIR Public Review and Comment Period

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

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Phone: (408) 535-6872, Email: Reema.Mahamood@sanjoseca.gov

1.2 FINAL SEIR/RESPONSES TO COMMENTS

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

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

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.

1.2.1 Notice of Determination

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

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT OVERVIEW

The 0.6-acre project site is located at 491, 493, 495, 497, and 499 West San Carlos Street and 270 and 280 Josefa Street (APN 259-47-013, -014, -015, and -016) on the northeast corner of West San Carlos Street and Josefa Street in the City of San José. Regional, vicinity and aerial maps of the project site are shown in Figures 2.1-1, 2.1-2 and 2.1-3. The project site is currently developed and is located within the boundaries of the DSAP and the Downtown Strategy 2040 Plan area. The site is designated *Downtown* under the City's General Plan and zoned *LI – Light Industrial*. The site is located within the southern zone of the DSAP in the Park/San Carlos subarea. The proposed hotel is an allowed use under DSAP and the General Plan designation. The project proposes a confirming rezoning from the *LI Light Industrial* to the *DC Downtown Commercial Zoning District* that would conform to the Downtown Primary Commercial zoning standards. The *Downtown* General Plan designation allows for buildings up to 65 feet height. The project proposes General Plan Amendment to allow for increased height to accommodate the 95 feet proposed hotel building to be consistent with the proposed DSAP Amendment and the Downtown Strategy 2040.

The site is developed with two commercial buildings, a tank house, a duplex, a mixed-use building, and one single-family residence, totaling approximately 26,233 square feet. The northernmost lot on Josefa Street (APN 259-47-016) is an asphalt-paved parking lot with no built structures. The project proposes to demolish the existing buildings and redevelop the site with an eight-story hotel consisting of up to 175 rooms. Parking would be provided on three above-grade podium levels with driveway access on Josefa Street.

The project site is in the Delmas neighborhood to the west of downtown San José. The project site is bounded by San Carlos Street to the south, Josefa Street to the west, and residences to the north and east. The surrounding area consists of a mix of residential and light industrial buildings, and surface parking.

2.2 PROPOSED DEVELOPMENT

2.2.1 Hotel Building

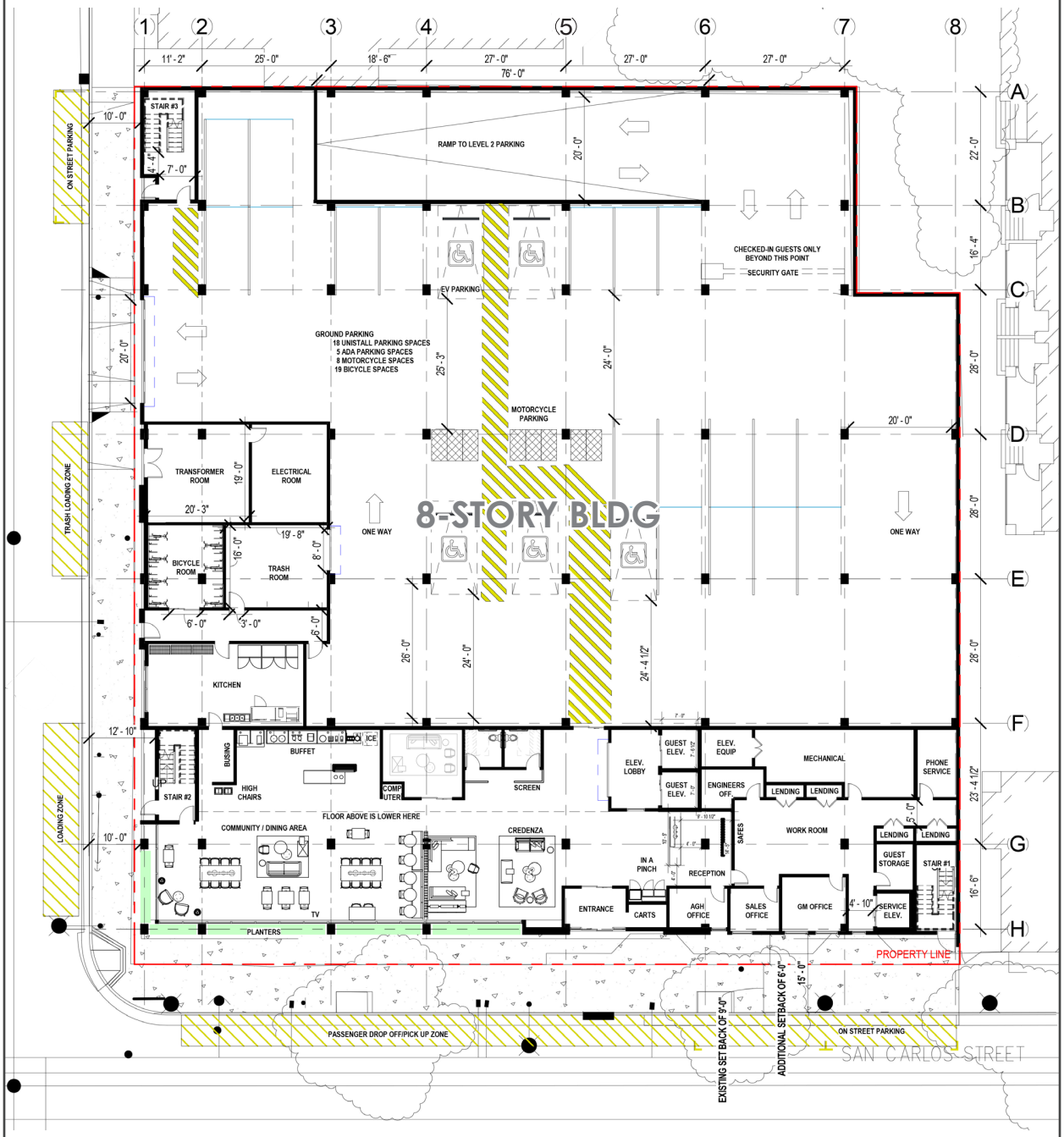
The project proposes to redevelop the site with eight-story Marriott hotel building with up to 175 rooms (see Figure 2.2-1). Some or all of the rooms could be extended stay, meaning the rooms would be equipped with kitchens and the guests could remain on-site for up to 30 days. The maximum height of the building would be approximately 84.5 feet to the rooftop and 95 feet to top of the parapet. Conceptual building elevations of the proposed project are shown in Figure 2.2-2. The first through third floors would consist of parking for hotel guests. The fourth through eighth floor of the building would have the hotel rooms. The building would be set back approximately six feet from the property lines along the street frontages to allow for a 15-foot wide public sidewalk on San Carlos Street and a 10-foot wide sidewalk on Josefa Street.

REGIONAL MAP | FIGURE 2.1-1

FIGURE 2.1-2

VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3

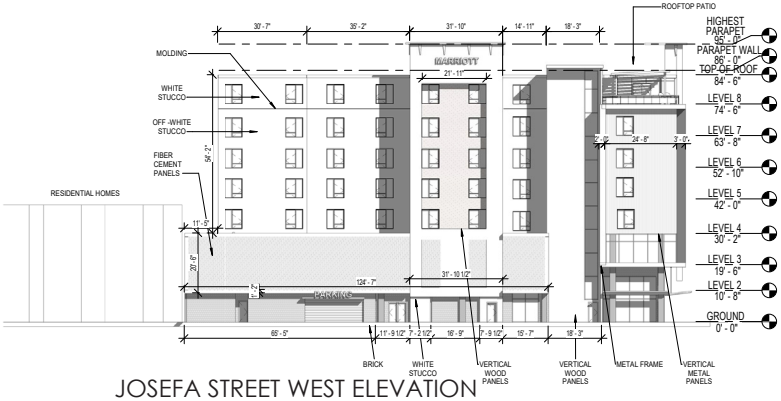


Source: Studio Current, April 24, 2020.

CONCEPTUAL SITE PLAN | FIGURE 2.2-1

RENDERED WEST SAN CARLOS SOUTH ELEVATION

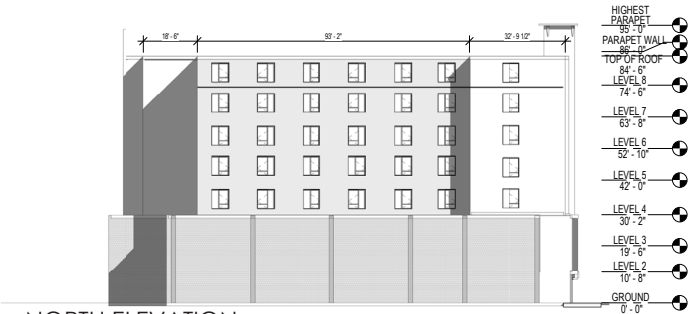
RENDERED JOSEFA STREET WEST ELEVATION



JOSEFA STREET WEST ELEVATION

WEST SAN CARLOS STREET SOUTH ELEVATION

EAST ELEVATION



NORTH ELEVATION

Source: Studio Current, April 24, 2020.

CONCEPTUAL ELEVATION DIAGRAM

FIGURE 2.2-2

The proposed hotel would cover approximately 95 percent of the total 26,233 square feet lot area. It would have a total building area of approximately 114,577 square feet (excluding the interior courtyard and parking garage). The project would have a floor area ratio (FAR) of 4.55. The total building area including three levels of parking garage and courtyard space would be 177,084 square feet.

2.2.2 Common Areas and Landscaping

The ground, third and eighth floors would consist of hotel amenities and common areas including workout facilities, breakfast area, lobby, lounge, and meeting rooms. In addition, the building would include a large, open air, landscaped courtyard on the fourth floor and an active roof terrace on the southwest corner of the eighth floor (see Figure 2.2-3).

2.2.3 Site Access and Parking

The project proposes a total of 117 parking spaces within an on-site parking garage with one ground-floor level and two above-ground levels (second and third floors). Site access to the parking garage is proposed via a full-access driveway located along Josefa Street (see Figure 2.2-1). Street parking is currently allowed on both West San Carlos and Josefa Streets along the project frontages and would remain with the project. A passenger loading zone would be located along the San Carlos Street frontage. The project proposes to provide a total of six electric vehicle (EV) parking spaces located within the ground-floor level. The project would also provide 19 bicycle parking spaces.

2.2.4 Public Right-Of-Way and Utility Improvements

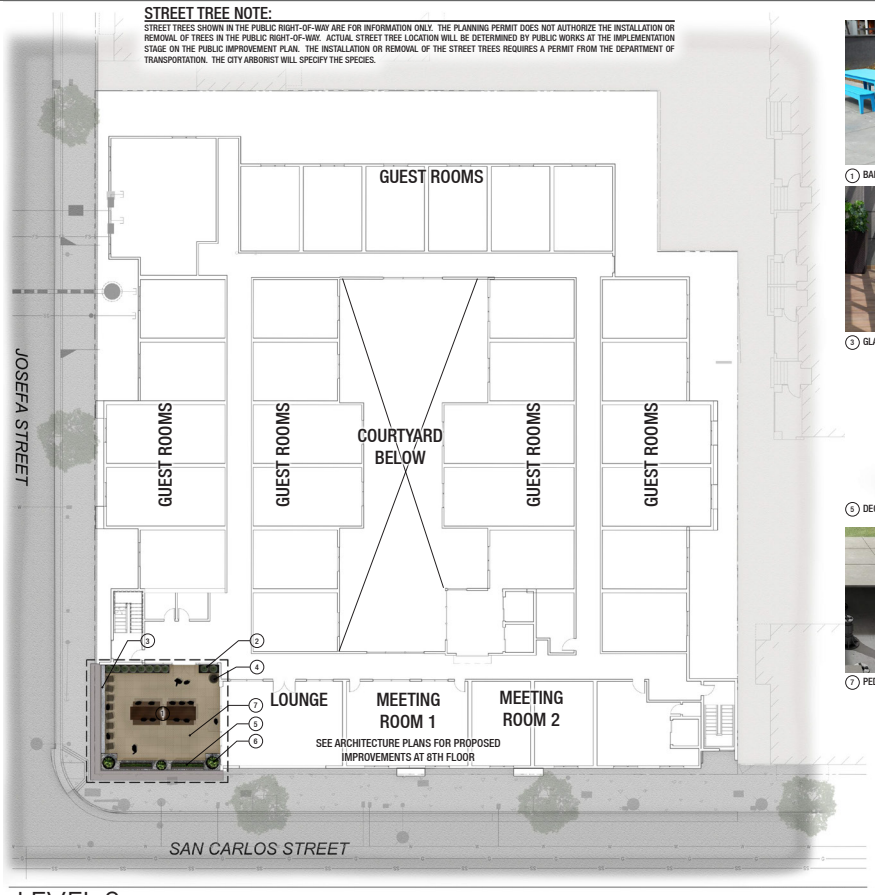
Stormwater runoff from this project site would be collected and routed for treatment by either biotreatment through the Biotreatment Flow-Through Planters positioned on the central and northern podium deck or through a Media Filter Treatment vault positioned in the garage. All storm water outflow from these devices would flow into the public stormwater collection system located on Josefa Street. Wastewater from the project site would be directed to sanitary sewer lines in Josefa Street. The project proposes to place existing overhead communication lines underground.

2.2.5 Green Building Measures

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve, at a minimum, CAL Green Code requirements. This would be met by incorporating a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections. The project is required to comply with City of San José Reach Code and would also be implementing sustainability measures equivalent to Leadership in Energy and Environmental Design (LEED) Silver.

2.2.6 Construction

Construction of the proposed project is estimated to start in Winter 2021 and would take approximately 19 months to complete. Construction would take place seven days a week within standard construction hours (7:00 am to 7:00 pm). Excavation would extend to approximately three feet across the entire site and would require approximately 500 cubic yards of soil export and 500



LEVEL 8


1 BANQUET TABLES

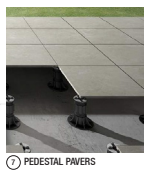

2 LIGHTWEIGHT LINEAR PLANTERS


3 GLASS RAILING WITH DRINK LEDGE


4 DECORATIVE TRASH RECEPTACLE


5 DECORATIVE CONCRETE PLANTER POT

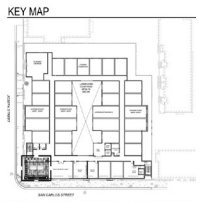

6 VINE SCREEN IN PLANTER POT

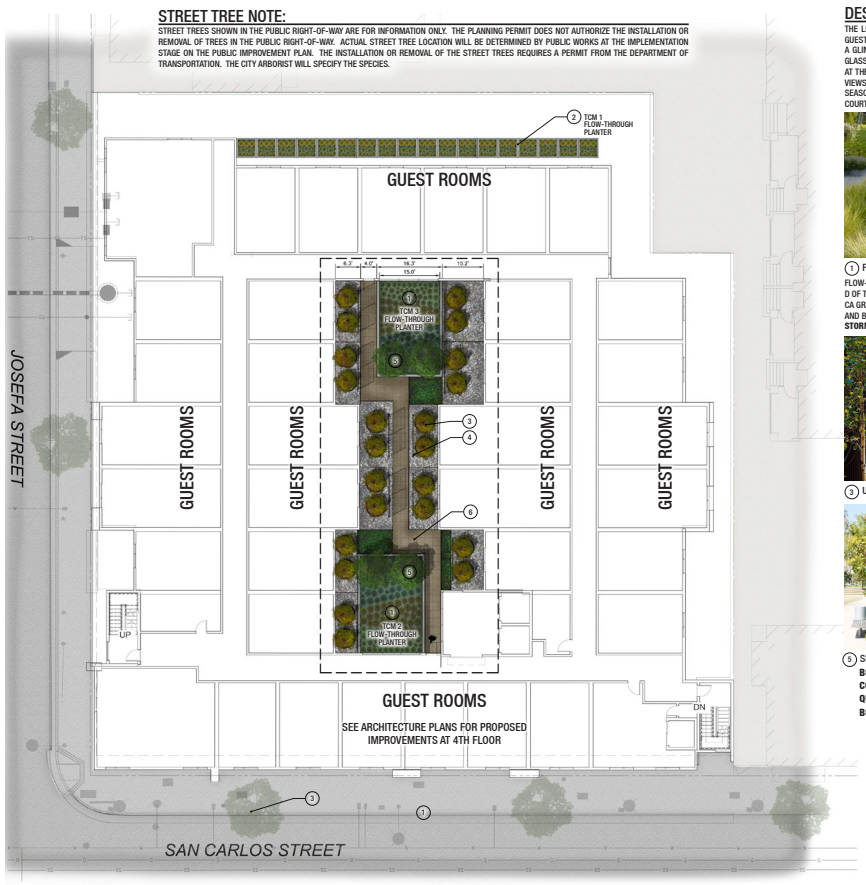

7 PEDESTAL PAVERS

DESIGN INTENT (LEVEL 8 TERRACE):

THE LEVEL 8 TERRACE IS DESIGNED AS AN EXTENTION OF THE ADJACENT COMMON ROOM FOR GUESTS. TWO BARBECUE GRILLS WILL BE AVAILABLE FOR GUESTS TO USE IN PREPARING MEALS. THE TERRACE IS DESIGNED TO ENCOURAGE MINGLING OF GUESTS. WITH A VARIETY OF SEATING OPTIONS, INCLUDING BAR AND BANQUET TABLE, GUESTS HAVE THE OPTION OF DINING IN LARGE GROUPS, COUPLES, OR ON THEIR OWN. LONG, LINEAR PLANTERS LINE THE EDGE OF THE TERRACE, WHILE DECORATIVE POTS ACCENTUATE ARCHITECTURAL FEATURES. SPECIAL ATTENTION HAS BEEN GIVEN TO FLEXIBILITY OF THE SPACE, IN ORDER TO ACCOMMODATE A VARIETY OF ACTIVITIES FOR GUESTS.

KEY MAP





LEVEL 4

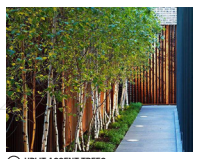
DESIGN INTENT (LEVEL 4 COURTYARD):

THE LEVEL 4 COURTYARD WILL BE ONLY ACCESSIBLE BY MAINTENANCE AND HOTEL STAFF. THOUGH HOTEL GUESTS WILL NOT BE ABLE TO ACCESS THE SPACE, ITS DESIGN MARRIES FUNCTION AND FORM, BRINGING A GLIMPSE OF NATURE TO THIS URBAN RETREAT. TWO LARGE FLOW-THRU PLANTERS MEET THE EXPANSIVE GLASS WINDOWS AT BOTH THE NORTH AND SOUTH SIDE OF THE COURTYARD. OUTSIDE EACH GUEST ROOM AT THE COURYARD LEVEL, DECORATIVE PANELS PROVIDE PRIVACY WHILE ALLOWING SUNLIGHT AND SCREENED VIEWS OF THE COURTYARD. A SELECTION OF TEXTURAL TREES, SHRUBS, AND GRASSES GIVE THE COURTYARD SEASONAL INTEREST. CONCRETE PEDESTAL PAVERS RUN FROM THE SOUTH TO THE NORTH SIDE OF THE COURTYARD, ALLOWING STAFF TO EASILY ACCESS THE IMPROVEMENTS AND MOVE THROUGH THE SPACE.

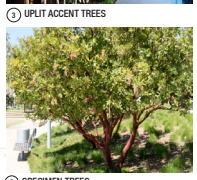

1 FLOW-THRU PLANTER

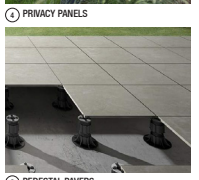

2 FLOW-THROUGH PLANTERS

FLOW-THROUGH PLANTERS SHALL BE PLANTED WITH SCVURPPP-APPROVED PLANTS ONLY, PER THE APPENDIX D OF THE C3 STORMWATER HANDBOOK. PLANTS MAY INCLUDE: MARINA STRAWBERRY TREE, VINE MAPLE, CA GRAY RUSH, DWARF CAPE RUSH, DUNE SEDGE, BERKELEY SEDGE, BLOND AMBITION BLUE GRAMA GRASS, AND BLUE OAT GRASS. **INCLUDE 3" OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORMWATER TREATMENT PLANTINGS.**

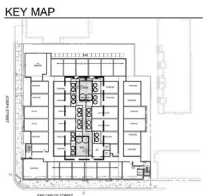

3 UPLIT ACCENT TREES

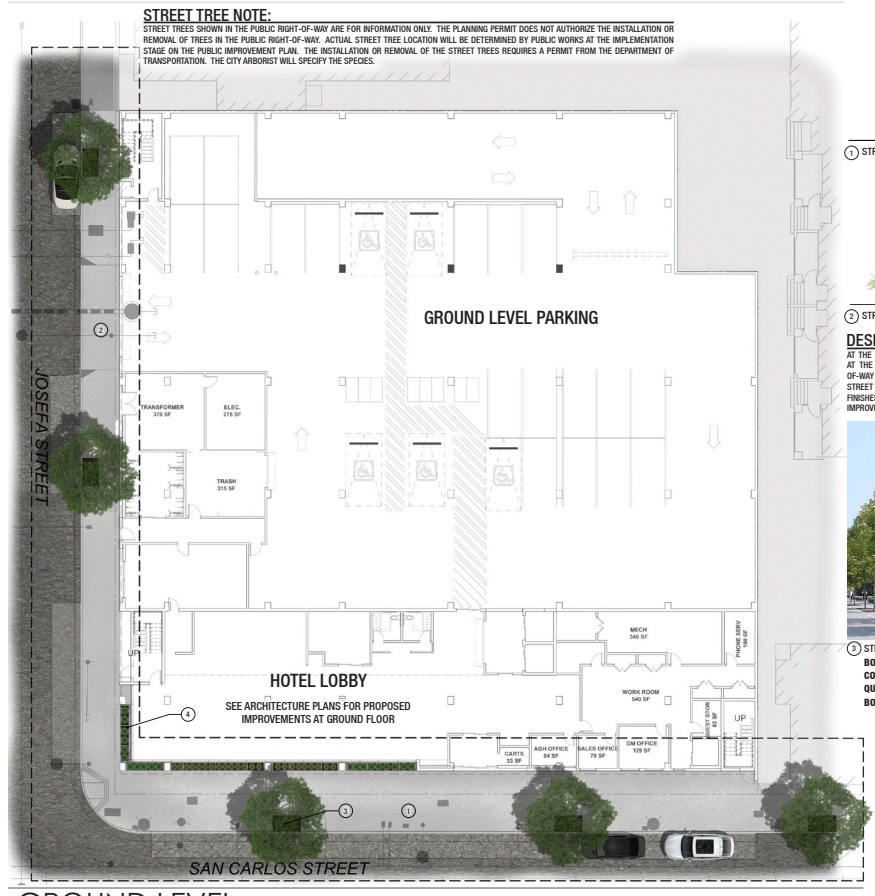

4 PRIVACY PANELS


5 SPECIMEN TREES
BOTANICAL NAME: *ARBUTUS 'MARINA'*
COMMON NAME: MARINA STRAWBERRY TREE
QUANTITY: 4
BOX SIZE: 24"


6 PEDESTAL PAVERS

KEY MAP






1 STREETSCAPE: SAN CARLOS STREET


2 STREETSCAPE: JOSEFA STREET

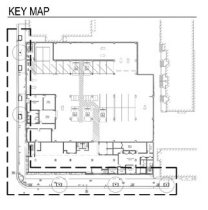
DESIGN INTENT (GROUNDLEVEL):

AT THE GROUND LEVEL, A COMBINATION OF DECORATIVE PLANTERS WRAP AROUND THE HOTEL'S FRONTAGE AT THE INTERSECTION OF JOSEFA STREET AND WEST SAN CARLOS STREET. WITHIN THE PUBLIC RIGHT-OF-WAY AND DEDICATED SIDEWALK EXTENSION, LANDSCAPE IMPROVEMENTS WILL BE LIMITED TO STREET TREE WELLS, NATURAL GRAY CONCRETE, AND STANDARD CITY-REQUIRED FURNISHINGS AND FINISHES, PER CITY DIRECTION. STREET TREES WILL BE PLACED TO COORDINATE WITH ARCHITECTURAL IMPROVEMENTS, UTILITIES, PARKING, EXISTING-TO-REMAIN STREET LIGHTS AND OTHER STRUCTURES.


3 STREET TREES:
BOTANICAL NAME: *PLATANUS X ACERIFOLIA*
COMMON NAME: LONDON PLANE TREE
QUANTITY: 4
BOX SIZE: 24"


4 TOURNESOL PLANTER ON DECORATIVE CRUSHED ROCK BASE

KEY MAP



GROUND LEVEL

Source: Studio Current, April 24, 2020.

LANDSCAPE PLAN FOR GROUND FLOOR, FOURTH FLOOR AND EIGHTH FLOOR | FIGURE 2.2-3

cubic yards of soil import. The number of truck trips associated with the soil import and export activities would be approximately 350 total round trips.

Construction activities associated with the proposed project include utility connections, building construction, frontage improvements (e.g., new street trees, new curb, gutter, sidewalk and driveway construction and placing existing overhead utility lines underground), and landscaping on the site.

2.3 PROJECT OBJECTIVES

The objectives of the project are:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan, Downtown Strategy 2040, and DSAP by locating commercial (and hotel) development on a downtown site within a designated Urban Village.
2. Create a modern hotel project to compliment office development underway in downtown San José, and meet the significant anticipated future demand from adjacent tech campus development.
3. Support San Jose's Environmental Stewardship goals by providing a LEED Silver-equivalent building (and City of San José Reach Code compliant) with sustainable energy and water usage, natural ventilation, EV parking, and reduced carbon footprint. This also includes addressing soils conditions across the entire site, in accordance with local regulations.
4. Add economic development growth in a transit-centric location served by various modes of public transportation such as bikeways, VTA light rail and buses, and planned BART extension, and generate ongoing "Transient Occupancy Tax" revenue.
5. Construct and upgrade public facilities, such as sidewalks and infrastructure to be consistent with City policies and planning documents.

2.4 USES OF THE EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that the following discretionary approvals will be required to implement the project addressed in this SEIR:

- Conforming Rezoning
- General Plan Amendment for height
- Vesting Tentative Map
- Site Development Permit
- Public Works Permits (e.g., grading, encroachment)

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

The Initial Study (Appendix A) of this document discusses impacts associated with the following resources areas:

- Aesthetics
- Agricultural and Forestry Resources
- Energy
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Transportation
- Wildfire
- Mandatory Findings

This section presents the impact discussions related to the following environmental subjects in their respective subsections:

3.1	Air Quality	3.4	Greenhouse Gas Emissions
3.2	Biological Resources	3.4	Hazards and Hazardous Materials
3.3	Cultural Resources	3.6	Noise

The discussion for each environmental subject includes the following subsections:

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

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

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

- **Impact Conclusions** – Because the analysis in this SEIR tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project specific analysis is presented as it relates to the findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.

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

  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 SEIR uses the list of projects approach.

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

  Table 3.0-1 provides a list of the approved but not yet constructed/occupied and pending projects within one-mile radius of the project site that were considered in the cumulative impact analysis of the project.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
Pending and Approved, But Not Yet Constructed/Occupied		
Montgomery 7 Project	282 S. Montgomery Street	10-story multi-family project with 54 for-rent residential units and 1,856 square feet of retail on a 0.1-acre parcel.
Park and Delmas Mixed-Use Residential Project	Northwest corner of Park Avenue and Delmas Avenue	Demolish a 4,200-square foot office building and construct two buildings totaling 123 residential units and one level of underground parking. The buildings would also have a combined 1,000 square feet of ground-floor retail space.
Delmas Senior Living project	South of West San Carlos Street and west of Gifford Avenue.	Demolish all structures on-site and construct a six-story building with up to 49 memory care units, 116 assisted living units, and four affordable housing units.
Madera @ Google Village apartment project	486-498 W. San Carlos & 332-338 Josefa St	This project proposes an eight-story multifamily apartment building complex, consisting of approximately 157 units with a gross floor area of approximately 200,032 square feet.
458 W. San Carlos Street	400-458 W. San Carlos Street	2.7-acre project site: two 28-story residential towers with a combined total of 1,000 units and 1,000 parking spaces or a 20-story and a 16-story office tower totaling 1.8 million gross square feet combined
Almaden Offices	Northwest corner of South Almaden Boulevard and Woz Way	Demolition of on an existing parking lot and the construction of up to approximately 1,727,777 square feet of office in two 16-story towers (North Tower and South Tower) on an approximately 3.57-acre site.
244 McEvoy Street	Corner of Park Avenue and McEvoy Street	Redeveloping six parcels into a residential complex with 762 residential units replacing multiple one- and two-story office, commercial and industrial buildings on the south side of Park Avenue.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
Pending and Approved, But Not Yet Constructed/Occupied		
McEvoy Affordable Housing Project	205 Dupont Street	Demolish nine existing structures on the property to allow for a 12-story, 358-unit affordable housing project.
Auzerais Avenue Residential Project	425 Auzerais Avenue	Demolish the existing buildings and construct a six-story residential building including podium parking and up to 130 attached residential units; and a Tentative Map to combine three lots into two lots and create 130 condominium units on 1.05 gross acre site.
Downtown West Mixed-Use Plan	The project site is located in the western portion of Downtown San José, mostly in the DSAP Area. The site also includes the former San José Water Company site at 374 W. Santa Clara Street, which is not part of the existing DSAP	The project proposes development of up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space, all on approximately 81 acres. The project also proposes infrastructure, transportation, and public realm improvements.
Woz Way project	280 Woz Way	Two 20-story office towers housing 6,000 square feet of retail and 30,000 square feet of outdoor terraces within multiple levels located at 280 Woz Way in San José

The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. For each resource area, cumulative impacts may occur over different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the

cumulative effect. Table 3.0-2 provides a summary of the different geographic areas used to evaluate cumulative impacts.

Table 3.0-2: Geographic Considerations in Cumulative Analysis	
Resource Area	**Geographic Area**
Aesthetics	Project site and adjacent parcels
Agriculture and Forestry Resources	City
Air Quality	San Francisco Bay Area Air Basin
Biological Resources	Project site and adjacent parcels
Cultural Resources	Project site and adjacent parcels
Energy	Energy provider's territory
Geology and Soils	Project site and adjacent parcels
GHGs	San Francisco Bay Area Air Basin
Hazards and Hazardous Materials	Project site and adjacent parcels
Hydrology and Water Quality	Guadalupe River watershed
Land Use and Planning/Population and Housing	Citywide
Minerals	Identified mineral recovery or resource area
Noise and Vibration	Project site and adjacent parcels
Public Services and Recreation	Project site and vicinity
Transportation/Traffic	Project site and vicinity
Tribal Cultural Resources	Project site and adjacent parcels
Utilities and Service Systems	Citywide
Wildfire	Within or adjacent to the wildfire hazard zone

SEIR Baseline

The baseline for the analysis in this SEIR is the existing conditions at the time the NOP was released. While the document tiers from the Downtown Strategy 2040 FEIR, the baseline condition identified in the Downtown Strategy 2040 FEIR is no longer representative due to new development within the plan area.

3.1 AIR QUALITY

3.1.1 Environmental Setting

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in June 2020 and updated in October 2020. A copy of this assessment is attached as Appendix B to the SEIR.

3.1.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead. Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.1-1**.** The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 3.1-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
Ozone (O_3)	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[1] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

3.1.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

[1] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 10, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

CARB is the State agency that regulates mobile sources throughout the State and oversees implementation of the State air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the State, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional and Local

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State and federal air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[2]

Envision San José 2040 General Plan

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

[2] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

General Plan Policies - Air Quality	
Air Pollutant Emission Reduction Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.
Toxic Air Contaminants Policies	
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Policy MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.
Construction Air Emission Minimization Policies	
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.4	Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines.

Downtown Strategy 2040 Plan

The San José Downtown Strategy 2040 Plan is an urban design plan that guides development activities planned within the downtown area. The Downtown Strategy Plan FEIR[3] identified less than significant construction period emissions if development projects are in conformance with 2017 BAAQMD CEQA Guidelines "Best Management Practices", GP Policy MS-13.1, and current City requirements that include various levels of construction emissions control measures. These measures are included as Standard Permit Conditions, and all projects are required to implement them.

Projects that exceed the screening levels would be required to complete additional project level analysis of construction-related emissions of criteria pollutants and may require additional measures to ensure that construction emissions would not exceed the threshold for average daily emissions. Operational emissions of regional criteria air pollutants with measures included to reduce emissions under the Downtown Strategy Plan were identified as significant and unavoidable. To reduce operational emissions associated with vehicle travel, future development will be required to implement a transportation demand management (TDM) program, consistent with the Downtown Transportation Plan.

3.1.1.3 *Existing Conditions*

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for CO. Table 3.1-2 shows violations of State and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2016-2018 period (the most recent years for which data is available).[4]

Table 3.1-2: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2017	2018	2019
SAN JOSÉ STATION				
Ozone	State 1-hour	3	0	1
	Federal 8-hour	4	0	2
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	6	4	4
$PM_{2.5}$	Federal 24-hour	6	15	0

Source: Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries." Accessed September 24, 2020. Available at: http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

[3] The City of San Jose. *Downtown Strategy 2040 Integrated Final Environmental Impact Report.* SCH# 2003042127, December 2018.

[4] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

The closest sensitive receptors are the adjacent multi-family residences approximately 10 feet to the north and east of the project site. There are additional residences surrounding the site at further distances.

3.1.2 Impact Discussion

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

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

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

3.1.2.1 *Project Impacts*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data.

The analysis in this SEIR is based upon the general methodologies in the most recent BAAQMD *CEQA Air Quality Guidelines* and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2017 *BAAQMD CEQA Air Quality Guidelines*, as shown in Table 3.1-3. BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs because chronic exposure to diesel emissions can cause adverse health effects. A review of the project area indicates Interstate (I)-280, San Carlos Street, and Bird Avenue are within 1,000 feet of the site. Lastly, there are three listed stationary sources of air pollution (auto-body shops) within 1,000 feet of the project site.

Table 3.1-3: Project-Level Significance Thresholds			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hr average)	20.0 ppm (1-hr average)
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.3 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.8 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Accidental Release of Acutely Hazardous Materials	None	Storage or use of acutely hazardous materials locating near receptors or new receptors locating near stored or used acutely hazardous materials considered significant	
Odors	None	5 confirmed complaints per year averaged over three years	
Note: μ/m^3 = micrograms per cubic meter.			

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

2017 Clean Air Plan

The proposed project would not conflict with the 2017 CAP because it would be smaller than the BAAQMD CEQA Air Quality Guidelines Operational Criteria Pollutant Screening Size, is considered urban infill, and would be located near bike paths and transit with regional connections. Because the project would not exceed the BAAQMD screening criteria of 489 hotel rooms, it would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 3.1-3. Thus, the project is not required to incorporate project-specific

control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining State and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. The project would comply with the 2017 Clean Air Plan.

Construction Period Emissions – Criteria Pollutants

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. The proposed land uses of the project were input into CalEEMod, which included 175 hotel rooms and 114,577 square feet entered as "Hotel" on 0.6 acres, and 123 parking spaces and 62,690 square feet entered as "Enclosed Parking with Elevator". The construction schedule assumes that construction would occur seven days a week over a period of approximately 19 months, or 473 construction workdays. Table 3.1-4 shows the estimated daily air emissions from construction of the proposed project.

Table 3.1-4: Construction Emissions from the Project

Description	ROG	NO_x	PM_{10}	$PM_{2.5}$
Total Construction Emissions (tons)	0.8	2.1	0.1	0.1
Average Daily Emissions (pounds/day)[1]	3.5	8.7	0.5	0.4
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceeds Threshold?	**No**	**No**	**No**	**No**
Notes: [1]Assumes 473 days				

As shown above, construction period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds. Therefore, the project would have a less than significant impact from criteria pollutant construction emissions.

Operational Period Emissions – Criteria Pollutants

The impact of operational emissions was addressed in the Downtown Strategy 2040 FEIR and found to be significant and unavoidable. Operational air emissions from the project would be generated primarily from autos driven by future guests, employees, and vendors.

CalEEMod was used to estimate emissions from operation of the proposed project assuming full build out. The earliest the project would be constructed and operational would be 2023. Any emissions associated with build out later than 2023 would be lower than the estimated emissions due to assumed efficiencies over time. Trip generation rates from the Local Transportation Analysis prepared for the proposed project (refer to Appendix Hof this document), generator emissions, and CalEEMod defaults for energy use and emissions associated with solid waste generation and water/wastewater use were used. The project would include one emergency generator on the roof of the building. The preliminary size of the generator would be approximately 60-kW and would be powered by an approximately 80-HP diesel engine. This generator would be tested periodically and power the buildings in the event of a power failure. For modeling purposes, it was assumed that the generator would be operated primarily for testing and maintenance purposes. CARB and BAAQMD requirements limit these engine operations to 50 hours each per year of non-emergency operation. During testing periods, the engine would typically be run for less than one hour. The engine would be

required to meet CARB and EPA emission standards and consume commercially available California low-sulfur diesel fuel. The generator emissions were modeled using CalEEMod. The existing land uses on the project site include two mostly vacant single-story retail buildings, three residences (including one single-family home, a mixed-use building, and a duplex) and a tankhouse. These uses produce low operational and traffic emissions which would not considerably offset emissions from the proposed project. Therefore, the emissions from the existing uses were not considered, nor used to offset proposed project conditions.

Table 3.1-5: Operational Emissions for the Project

Description	ROG	NO_x	PM_{10}	$PM_{2.5}$
2023 Project Operational Emissions (tons/year)	0.8	0.6	0.5	0.2
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Threshold Exceeded?	**No**	**No**	**No**	**No**
2023 Project Operational Emissions (pounds/day)[1]	4.4	3.4	2.9	0.9
BAAQMD Thresholds (pounds/year)	54	54	82	54
Threshold Exceeded?	**No**	**No**	**No**	**No**

Note: [1]Assumes 365-day operation.

Operational criteria pollutant emissions associated with the proposed project would not result in emissions above established BAAQMD thresholds (see Table 3.1-5 above). The project is part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from full build out of the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. The project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR.

The project would comply with the 2017 Clean Air Plan and would not exceed emissions thresholds for construction or operational criteria pollutants. Therefore, the project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. **[Less Impact than Approved Project (Significant and Unavoidable Impact)**

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

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

As discussed in a), operational criteria pollutant emissions associated with the proposed project would not result in emissions above established BAAQMD thresholds (see Table 3.1-5). The project is part of the planned growth in the downtown area and would contribute to the significant

operational emissions forecast from full build out of the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. The proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. The project would not result in any new impacts or impacts of greater severity than were already disclosed in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

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

Dust Generation

Construction activities would temporarily generate fugitive dust in the form of PM10 and PM2.5. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying loads of soils. Consistent with the Downtown Strategy 2040 and General Plan Policy MS-13.1, the following measures for controlling dust and criteria pollutant emissions would be implemented as Standard Permit Conditions during construction to reduce dust and other particulate matter.

Standard Permit Conditions

The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With the implementation of the Standard Permit Conditions above, and consistent with the Downtown Strategy 2040 FEIR measures, fugitive dust and other particulate matter during construction would have a less than significant air quality impact.

Community Risk Impacts within 1,000 feet of the Project Site from Project Construction and Operation

Construction activity and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC and could pose a health risk to nearby sensitive receptors. A construction community health risk assessment was prepared to address project construction impacts on the surrounding off-site sensitive receptors within 1,000 feet of the project site. Operation of the project would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (i.e., emergency generator).

Community Risk from Project Construction

The primary community risk impact issue associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. The maximum-modeled annual DPM and $PM_{2.5}$ concentrations were identified at nearby sensitive receptors (as shown in Figure 3.1-1) to find the maximally exposed individuals (MEIs). Results of this assessment indicated that the cancer risk MEI was located on the third floor (25 feet above ground) of the multi-family residence adjacent to the east of the project site and the total PM2.5 concentration MEI was located on the first floor (five feet above ground) at the same receptor location (as seen in Figure 3.1-1). The maximum increased cancer risk and maximum $PM_{2.5}$ concentrations from construction would exceed their respective BAAQMD single source thresholds of greater than 10.0 per million for cancer risk and greater than 0.3 µg/m3 for $PM_{2.5}$. For cancer risk, infants would exceed the threshold, but children and adults would have exposure below the threshold. The HI would not exceed its BAAQMD single-source thresholds of 1.0. Table 3.1-6 summarizes the construction risk from construction activities affecting the MEIs.

Community Risk from Project Operation

Operation of the project would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (i.e., emergency generator). The project would generate some traffic, consisting mostly of light-duty vehicles that are not a source of substantial TACs or PM2.5. Based on the project's trip generation estimates provided by the traffic study, the project would add 738 maximum daily trips on Josefa Street. Even with the maximum project's trips included, the average daily traffic (ADT) on Josefa Street would be below 10,000 vehicles. Therefore, the project's increase in traffic would be a negligible source of TACs and PM2.5. The project would include a 60-kW emergency generator with an approximately 80-HP diesel engine. The generator would be located on the hotel roof, but the exact location was unknown at the time of this study. Therefore, it was conservatively assumed to be located in the southeast corner of the building's roof closest to nearby residences. Figure 3.1-2 shows the location of the modeled emergency generator.

As shown in Table 3.1-6, the unmitigated project construction and operation community risks would exceed the BAAQMD single-source thresholds for increased cancer risk and maximum PM2.5 concentration.

LOCATIONS OF OFF-SITE SENSITIVE RECEPTORS AND POINT SOURCE LOCATIONS | FIGURE 3.1-1

PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 3.1-2

Table 3.1-6: Construction Risk Impacts at the Off-site Residential MEIs			
Source	Cancer Risk	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction (Years 0-2)	111.9 (infant)	1.29	0.11
Project Generator – 60-kW, 80-hp (Years 3-30)	<0.1	<0.01	<0.01
Total/Maximum Project Risks (Years 0-30)	**<112.0** (infant)	**1.29**	0.11
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>0.1***
Exceeds Threshold?	***Yes***	***Yes***	No
Notes: * Maximum cancer risk and maximum PM2.5 concentration occur at same receptor on different floors.			

Impact AIR-1: Construction activities associated with the proposed project would expose infants near the project site to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk and $PM_{2.5}$ concentration).

Mitigation Measures:

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

- For all construction equipment larger than 25 horsepower operating on-site for more than two days continuously or 20 hours total, use equipment that meets U.S. Environmental Protection Agency (EPA) Tier 4 particulate matter emissions standards.
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two days continuously or 20 hours total shall use equipment that 1) meet the U.S. EPA emission standards for Tier 3 engines and include CARB-certified Level 3 Diesel Particulate Filters or equivalent that together achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment (e.g., non-diesel) that would meet this reduction requirement.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, air compressors, and concrete/industrial saws.

With the implementation of mitigation MM AIR-3.1, the infant residential cancer risk would be reduced to 9.2 per one million cases or less and the maximum $PM_{2.5}$ concentration would be reduced to 0.27 $\mu g/m^3$ which would be below the BAAQMD significance threshold of 10 per one million cases for cancer risk and the maximum $PM_{2.5}$ of 0.3 $\mu g/m^3$. The HI would be less than 0.01. The community risk impact would be less than significant with implementation of the mitigation measure.

Criteria Pollutant Emissions

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

The proposed project would result in a less than significant project-level and cumulative operational and construction criteria pollutant impact as discussed previously. Therefore, the project would result in a less than significant health impact to sensitive receptors. **(New Less Than Significant Impact)**

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

No new stationary odor sources are proposed as part of the proposed project; the project would not expose existing nearby sensitive receptors to new odor sources. The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. Consistent with the Downtown Strategy 2040, implementation of the proposed project would not result in long-term or short-term odor impacts due to its localized and temporary nature and would not expose sensitive receptors to significant odor impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.1.2.2 *Cumulative Impacts*

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

As stated in Table 3.0-2, the geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts.

Cumulative Impact on Off-Site MEI

Total Project Community Health Risks – Construction and Operation

The cumulative risk impacts from a project are the combination of construction activity, project generated traffic, and the operation of the proposed generator. This project impact is computed by adding the construction and operational cancer risk over a 30-year exposure period, assuming exposure at the same MEI. Unlike the increased maximum cancer risk, the annual PM2.5 concentration and HI risks are not additive but based on an annual maximum risk for the entirety of the project. However, in the case of this project, only construction would be a substantial source of risks and hazards (see Table 3.1-6). The project is not predicted to increase traffic enough on the local roadways or produce any generator emissions to have a substantial TAC impact.

Combined Impact of All TAC Sources on the Off-Site Construction MEI

A community health risk assessment typically considers all substantial sources of TACs located within 1,000 feet of a project site.[5] These sources can include rail lines, highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that traffic on W. San Carlos Street and S. Montgomery Street have an ADT of over 10,000 vehicles. All other roadways within the area are assumed to have an ADT that is less than 10,000 vehicles. Eight stationary sources were identified within the 1,000-foot influence area using BAAQMD's stationary source map website. Figure 3.1-2 shows the sources affecting the project site.

[5] Developments under planning review are not included within the cumulative analysis since it is speculative to include construction emissions from projects that may or may not be approved.

Table 3.1-7: Cumulative Community Risk Impacts from Combined TAC Sources at MEI			
Source	**Maximum Cancer Risk* (per million)**	**$PM_{2.5}$ Concentration* ($\mu g/m^3$)**	**Hazard Index (HI)**
Total/Maximum Project Risks (Years 0-30)			
Unmitigated	**<112.0 (infant)**	**1.29**	0.11
Mitigated	9.3 (infant)	0.27	0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>0.1***
Significant?			
Unmitigated	***Yes***	***Yes***	No
Mitigated	No	No	No
Roadway/Railroad Sources			
W. San Carlos St, ADT 13,716	0.9	0.18	<0.01
S. Montgomery St, ADT 21,020	0.6	0.05	<0.01
Stationary Sources			
Plant #9037 (Coating Operation)	N/A	N/A	<0.01
Plant #11380 (Coating Operation)	N/A	N/A	<0.01
Plant #15832 (Coating Operation)	N/A	N/A	N/A
Plant #21748 (Generator)	<0.01	N/A	<0.01
Plant #21808 (Generator)	0.1	<0.01	<0.01
Plant #104113 (GDF)	0.2	N/A	<0.01
Plant #107956 (GDF)	0.1	N/A	<0.01
Plant #111433 (GDF)	0.6	N/A	<0.01
Cumulative Total			
Unmitigated	**<114.6 (infant)**	**<1.53**	<0.20
Mitigated	<11.8 (infant)	<0.51	<0.10
BAAQMD Cumulative Source Thresholds	***>100***	***>0.8***	***>10.0***
Significant?			
Unmitigated	***Yes***	***Yes***	No
Mitigated	No	No	No

Notes: Values reported as N/A indicate that the air district either does not have the data or the emissions levels are too low to detect.
*****Maximum cancer risk and maximum PM2.5 concentration occur at same receptor on different floors.
******Construction equipment with Tier 4 Interim engines and electric generators, air compressors, and concrete/industrial saws are identified as Mitigation Measures.

Table 3.1-7 above reports both the project and cumulative community risk impacts at the sensitive receptor most affected by construction and operation (i.e., the MEIs). Without mitigation, the project's community risk from project construction activities would exceed the single-source maximum increased cancer risk of 10.0 per million and the PM2.5 concentration threshold of 0.3 $\mu g/m^3$. Additionally, the unmitigated combined annual cancer risk and PM2.5 concentration would exceed their cumulative thresholds of 100.0 per million for cancer risk and of 0.8 $\mu g/m^3$ for PM2.5 concentration. The incorporation of construction standard permit conditions and mitigation measure AIR-1.1 would reduce these levels to below the significance thresholds. **[Same Impact as Approved Project (Less than Significant Cumulative Impact with Mitigation Incorporated)]**

3.2 BIOLOGICAL RESOURCES

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[6] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

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

[6] U.S. Department of the Interior. M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf. Accessed September 24, 2020.

Fish and Game Code Section 1602

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

Tree Removal Ordinance

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

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

Riparian Corridor and Bird-Safe Building Policy 6-34

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

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources, as listed below.

General Plan Policies – Biological Resources	
Special Status Plants and Animals	
Policy ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
Migratory Birds	
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Urban Natural Interface	
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Community Forest	
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.
Community Design Policies – Attractive City	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse ffect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

3.2.1.2 *Existing Conditions*

Special-Status Species

The project site is located in a developed, urban area in downtown San José. The project site is currently developed with two single-story commercial buildings, a tankhouse, a duplex, a mixed-use building, and a single-family residence. No sensitive habitats or wetlands are on or adjacent to the project site. The project site is located approximately 500 feet east of Los Gatos Creek and 0.5 miles south of the confluence of Los Gatos Creek and the Guadalupe River. Habitat in developed areas, such as the project site, are extremely low in species diversity. Species using developed habitat are predominantly urban adapted birds and animals, such as doves, squirrels, and domestic and feral cats. Rare, threatened, endangered and sensitive plants, animals and natural communities are not expected or likely to occur on the project site.

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

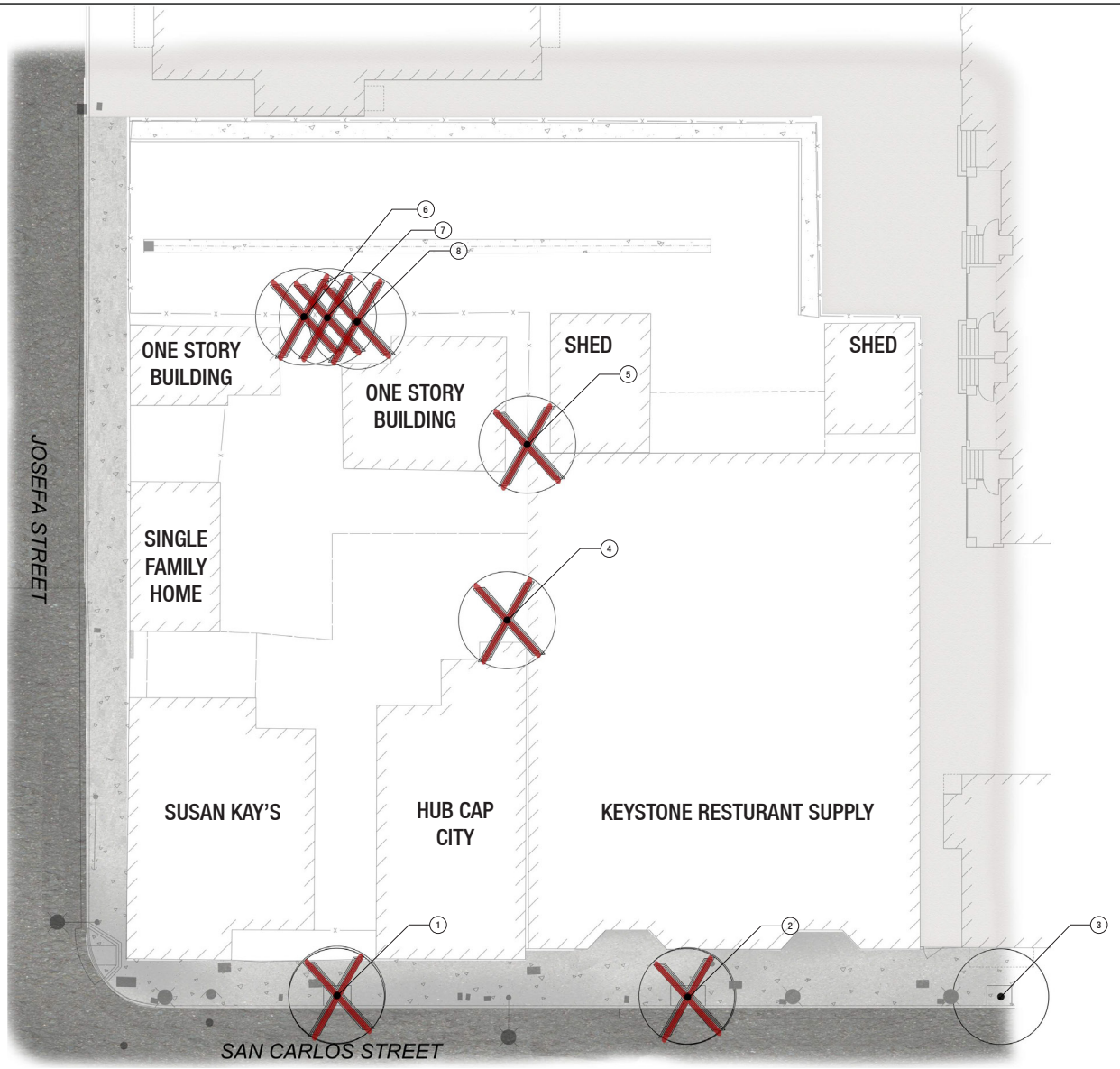
Trees

A total of eight trees (three street trees, three dead cypress, and two Tree of Heaven trees) were surveyed in April 2020. As shown in Table 3.2-1 below, out of the eight trees surveyed, three are ordinance-sized trees and none are native species. Seven trees are proposed for removal and one tree would be preserved. The location of trees is shown on Figure 3.2-1.

Table 3.2-1: Tree Survey

Tree No.	Scientific Name	Common Name	Circumference in Inches	Remove/Preserve
1	***Platanus x acerifolia***	**London Plane**	**39**	**Remove**
2	*Platanus x acerifolia*	London Plane	30	Remove
3	***Platanus x acerifolia***	**London Plane**	**38**	**Preserve**
4	*Ailanthus altissima*	Tree of heaven	22	Remove
5	*Ailanthus altissima*	Tree of heaven	19	Remove
6	*Cupressus x leylandii*	Leyland Cypress	25	Remove
7	*Cupressus x leylandii*	Leyland Cypress	29	Remove
8	***Cupressus x leylandii***	**Leyland Cypress**	**50**	Remove

Notes: Ordinance-sized trees are 38+ inches in circumference (12.1+ inches in diameter). **Bold** denotes ordinance-sized trees.



Source: Studio Current, April 24, 2020.

TREE LOCATION MAP

FIGURE 3.2-1

3.2.2 Impact Discussion

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

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?
c) Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant biological resources impacts, as described below.

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

Special-Status Species

The project site has been developed since as early as 1881 and is currently developed. Because of the long history of development and disturbance on-site, no natural or sensitive habitats supporting endangered, threatened, or special status wildlife species occur on-site. There are no riparian, wetland, or aquatic areas on or adjacent to the site. The impact of the project on the developed habitat of the site would be less than significant due to the relatively low value of this habitat for biological resources.

Nesting Raptors and Birds

The project site contains a total of eight trees (three street trees and five on-site trees) that may contain nesting raptors and birds. As disclosed in the Downtown Strategy 2040, raptor species such as the red-tail hawk, red-shouldered hawk, and Cooper's hawk could nest in larger trees and forage in the riparian corridor and nearby open space areas of downtown San José. There are no riparian areas on the project site.

Any construction related disturbances that result in nest abandonment or other forms of harm or injury to nesting birds that occur on or near the site would be considered a significant impact. Per the MBTA, all raptors and most bird species are protected while breeding.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, displacement of nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measures

The following mitigation measures, consistent with the Downtown Strategy 2040 FEIR and in conformance with the CDFW Code, the MBTA, and General Plan Policies ER-5.1 and ER-5.2, have been included to reduce impacts to nesting raptors to a less than significant level:

MM BIO-1.1: Construction activities, such as tree removals and grading, shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

The applicant shall submit a written statement to the Director of Planning, Building and Code Enforcement or the Director's designee indicating whether the nesting season would be avoided. If the nesting season cannot be avoided, then the applicant shall be required to implement MM BIO-1.2.

MM BIO-1.2: If tree removals and construction cannot be scheduled outside of the nesting season between September 1st and January 31st, inclusive, a qualified ornithologist shall complete pre-construction surveys to identify active raptor or other migratory birds' nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to approval of any ground disturbance activity, including issuance of any tree removal, grading, or building permit (whichever comes first), the applicant shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Implementation of the above mitigation measures would ensure that impacts to nesting birds would be reduced to less than significant.

The impact of the project on the developed habitat of the site would be less than significant due to the long history of development and disturbance on-site. The impacts to nesting birds could be significant due to construction activities at the project site but would be reduced to less than significant with implementation of mitigation measures MM BIO-1.1 and 1.2. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

According to the Downtown Strategy 2040 FEIR, the only sensitive natural communities (i.e., riparian and aquatic habitat) in the vicinity of the downtown area are located within the Los Gatos Creek and Guadalupe River. The project site is located approximately 0.1 miles east and 0.3 miles west of Los Gatos Creek and Guadalupe River, respectively. Construction of the project would be confined to the project site and would not impact the Guadalupe River or Los Gatos Creek, or the riparian areas adjacent to these waterways. Therefore, implementation of the project would not adversely affect any riparian habitat or other sensitive natural community. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The site is not located adjacent to any waterway nor are there federally protected wetlands, as defined by Section 404 of the Clean Water Act (CWA), located on or adjacent to the project site. The proposed project would not have a substantial adverse effect on any wetland habitat. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project site is located in a developed, urban area of downtown San José. The site does not serve as a wildlife corridor. Except for the possibility of nesting raptors or other birds nesting on-site or in adjacent street trees (see above), the site does not contain a native wildlife nursery. As discussed above, mitigation measures are included in the project to reduce impacts to nesting raptors or birds to a less than significant level. For these reasons, redevelopment of the site with the proposed

residential project would not interfere with the movement of native resident or migratory fish or wildlife species or impede the use of native wildlife nursery sites. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site contains eight trees as shown in Table 3.2-1. Of the eight trees, three are street trees, three are dead cypress, and two are Tree of Heaven (registered as CA Invasive Species). Consistent with the General Plan, any tree removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In addition, the project would be required to implement the following Standard Permit Conditions consistent with the Downtown Strategy 2040 FEIR.

Standard Permit Conditions

- **Replacement.** Replace all trees to be removed at the following ratios in Table 3.2-2 below:

Table 3.2-2: Tree Replacement Ratios

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

[1] As measured 4.5 feet above ground level

[2] X:X = tree replacement to tree loss ratio

[3] Ordinance-sized trees

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

One 24-inch box tree = two 15-gallon trees

Out of the eight trees, seven trees are proposed to be removed as part of the proposed project. One off-site street tree would be protected on place. The seven trees would be replaced as below[7]. (Refer to Table 3.2-1 for list of the surveyed trees by number).

[7] Morgan, Matthew. Kimley-Horn. *Email Communication*. September 16, 2020.

- **Tree #1 – London Plane:** Ordinance size, non-native. Replaced at 2:1 with (2) 24" box street trees
- **Tree #2 – London Plane:** Non-ordinance size, non-native. Replaced at 1:1 with (1) 24" box street tree
- **Trees # 4 and 5:** Based on correspondence with the City, these trees would not be mitigated for because they are CA invasive species.
- **Tree #6 – Cypress:** Non-ordinance size, non-native. Replaced at 1:1 with (1) 24" box street tree
- **Tree #7 – Cypress:** Non-ordinance size, non-native. Replaced at 2:1 with (2) 15-gallon trees at podium courtyard
- **Tree #8 – Cypress:** Ordinance size, non-native. Replaced at 4:1 with (4) 15-gallon trees at podium courtyard

The total number of replacement trees required to be planted would be four 24-inch box-street trees and six 15-gallon trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

- **In-lieu Mitigation.** In the event the project site does not have sufficient area to accommodate the required tree mitigation, implement one or more of the following measures, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
  - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
  - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

By conforming to the above conditions, the project would be replaced or preserved in accordance with the measures described above, which would offset the impacts created by the removal of existing trees. With implementation of the standard permit conditions listed above, development of the proposed project would not result in a significant impact to community trees. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The site is designated as *Urban-Suburban* land in the SCVHP. The project will not be subject to any land cover fee given the current condition of the site and developed nature of the area. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Conditions

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

Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.2.2.1 *Cumulative Impacts*

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

The proposed project, when combined with other projects in San José, would not result in a significant cumulative impact to biological resources. As described above, there is potential for nesting and migratory birds to occur in the project area. The project would not impact sensitive habitats or special status species. The project would implement MM BIO-1.1 and MM BIO-1.2 to avoid nesting bird impacts, which would reduce the project's contribution to cumulative impacts to nesting birds to a less than significant level. Pre-construction nesting surveys will ensure no disturbance of nesting activity occurs.

In addition, other projects in the City are also required to undergo site-specific analyses for their potential to adversely affect sensitive natural communities, habitats and special-status plant and animal species; if potential impacts are identified, mitigation measures would be incorporated into individual projects to reduce impacts to a less than significant level. Cumulatively, other projects would also be required to adhere to the City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) and applicable Habitat Plan conditions. For these reasons, the project would not result in a cumulative considerable contribution to a significant biological resources impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

3.3 CULTURAL RESOURCES

The following discussion is based upon a Historic Resource Assessment completed by *Treanor HL* in September 2020. A copy of this report is included in Appendix C of this SEIR. Public comments received during the NOP scoping process pertained to the historic significance of the tankhouse and commercial building that would be demolished as part of the proposed project.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for State and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[8]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The process of determining integrity is similar for both the CRHR and NRHP and uses the same seven variables or aspects to define integrity that are used to

[8] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 31, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both State and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended on May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible.

The landmark designation process itself requires that findings be made that proposed landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature, and that designation as a landmark conforms to the goals and polices of the Downtown

Strategy 2040. The following factors can be considered to make those findings among other relevant factors:

1. Its character, interest or value as a part of the local, regional, State or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, State or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José;
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contract, and various land use and zoning incentives.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources, as listed below.

General Plan Policies - Cultural Resource	
Landmarks and Districts	
Policy LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

General Plan Policies - Cultural Resource	
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
Policy LU-13.11	Maintain and update an inventory of historic resources in order to promote awareness of these community resources and as a tool to further their preservation. Give priority to identifying and establishing Historic Districts.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-13.20	Explore funding options and techniques to proactively conduct additional historic surveys and to maintain and update the City's Historic Resources Inventory. As funding allows, undertake comprehensive area-wide surveys of the city to identify potential Historic Districts, Cultural Landscapes at the City's edge, and significant buildings and/or structures, including Traditional Cultural Properties.
Historic Structures of Lesser Significance	
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
Policy LU-14.3	Design new development, alterations, and rehabilitation/remodels in conservation areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structures, complete non-Historic American Building Survey level of documentation, list qualifying structures on the Historic Resources Inventory, and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas
Site Development	
Policy IP-10.3	In addition to a Site Development permit, require an Historic Preservation permit for modifications to a designated Historic Landmark structure. This permit process

General Plan Policies - Cultural Resource	
	fosters the implementation of the Historic Preservation goals and policies of this 2040 General Plan.
Archaeology	
Policy ER-9.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

3.3.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located approximately 0.1 mile east and 0.3 mile west of Los Gatos Creek and Guadalupe River, respectively.

Literature review completed for the adjacent apartment complex identified the area to be archaeologically sensitive.

Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

The pueblo was originally located northeast of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo site is located approximately 0.7 miles northeast of the project site.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

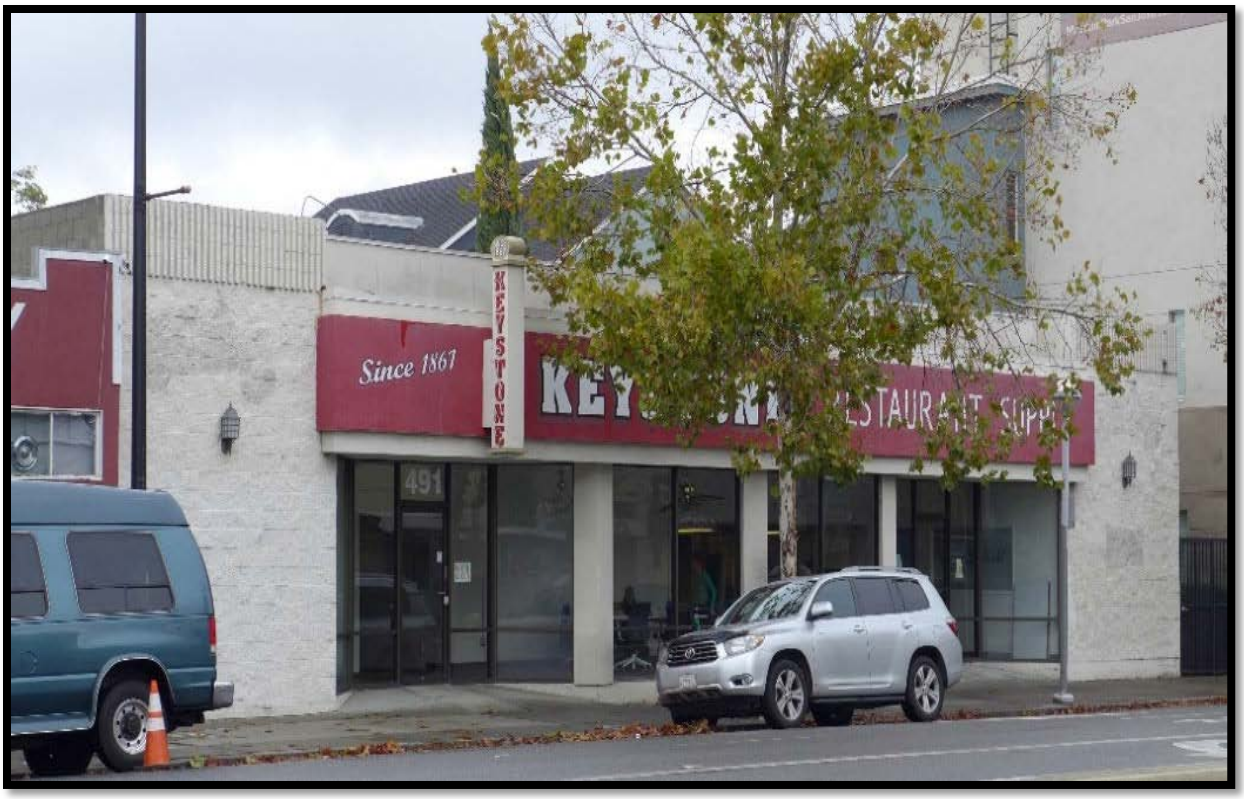
The project site is in the Delmas neighborhood to the west of downtown San José. The Delmas Park neighborhood was developed with agricultural and industrial land uses and began to urbanize in the late 19th century. By 1915, the block was developed with one- to two-story detached single-family residences. The parcels at the southwest corner of W. San Carlos and Josefa Streets were mostly developed by the end of the first quarter of the 20th century. The mixed-used building and its accessory structures at 497-499 W. San Carlos Street were constructed in 1905. According to the city directories, 280-282 Josefa Street was converted to a two-family dwelling by 1941. The commercial building at 493-495 W. San Carlos Street was constructed in 1923 and expanded in both 1925 and 1928. The one-story dwelling at the rear (495 ½ W. San Carlos Street) was constructed in 1923. The surface parking lot at 270 Josefa Street previously had a one-story dwelling which was constructed in 1930 and demolished in 1981. A one-story commercial building at 491 W. San Carlos Street was constructed in 1981, replacing a 1910 dwelling on the parcel.

Project Site

The project site includes six structures: a one-story warehouse/commercial building at 491 W. San Carlos Street, a one-story commercial building at 493-495 W. San Carlos Street, a one-story single-family house at 495 ½ W. San Carlos Street which is set back approximately 100 feet from street, a one-story mixed-use building (single-family house with an attached store) at 497-499 W. San Carlos Street, a one-story duplex at 280-282 Josefa Street, and a one-story accessory structure (the tankhouse). None of the structures on-site are listed on the NRHP or CRHR. The property at 497-499 W. San Carlos Street (APN 259-47-015) appears eligible for listing as a City Landmark. According to the City of San José Historic Resources Inventory, no properties have been previously identified as historic resources within 200 feet of the subject parcels [9]

491 W. San Carlos Street. In general, buildings less than 50 years old can be considered historic resources only if they constitute an exceptional achievement in architecture or engineering or are of otherwise exceptional importance. Constructed in 1981, the commercial structure at 491 W. San Carlos Street is not eligible for the NRHP, CRHR, or as a Candidate City Landmark since it does not represent an exceptional achievement.

[9] City of San José. "Historic Resources Inventory." Accessed September 30, 2020. https://www.sanjoseca.gov/home/showdocument?id=24021.



493-495 and 495 ½ W. San Carlos Street. The properties at 493-495, and 495 ½ W. San Carlos were owned and occupied by Italian families for several decades after they were built. The commercial building at 493-495 W. San Carlos Street (pictured above) was constructed in 1923, with expansions

in 1925 and 1928. The blocks surrounding downtown San José were being developed as residential suburban neighborhoods during this time, specifically the late 19th and the early 20th century; however, these buildings are not associated with the residential and commercial development of the neighborhood of San José in an individually significant way. The building is rectangular in plan with an L-shaped rear addition at the northeast corner. It is of wood construction with stucco cladding on the front, and horizontal wood siding on rear and side façades. It features gable and hipped roofs at the front and flat roof at the rear.

The one-story dwelling at 495 ½ W. San Carlos Street (pictured below) was constructed in 1923. The house as shown in the picture below is an example of a Craftsman style single family house in San José. It embodies some elements of the Craftsman style including its low-pitched gable roof with braces and exposed rafters, wide roof overhang, double-hung windows, partial porch, and exterior cladding.

NRHP/CRHR Evaluation

The buildings at 493-495 and 495 ½ W. San Carlos Street were constructed in the early 1920s. The property was constructed and occupied by the LoBono family—Italian immigrants who came to San José during the first immigration wave of the late 19th and early 20th centuries; however, it is not individually associated with the history of Italian immigrants in San José or the Santa Clara Valley. Therefore, the buildings are not eligible for listing on the NRHP or CRHR under Criterion A/1. None of the owners or occupants have been identified as important to the history of San Jose or California. Therefore, the buildings are not eligible for listing on the NRHP or CRHR under Criterion B/2. The commercial building 493-495 W. San Carlos Street is of common construction and materials with no notable or special attributes, and the structure does not possess high artistic value. No architect, designer or builder has been identified. The building does not embody characteristic features of an architectural style. It's stucco cladding and stepped parapet might have been influenced by the

Mission Revival architectural style; however, it not an exemplary representative of the style. The single-family house at 495 ½ W. San Carlos Street is of common construction and materials with no notable or special attributes, and the structure does not possess high artistic value. The building is merely one of many that was built in the Craftsman style during the early 20th century and does not feature details that make the structure stand out as an exemplary extant illustration of the style. Therefore, the buildings are not eligible for listing under on the NRHP or CRHR Criterion C/3. Archival research provided no indication that the buildings have the potential to yield information important to the prehistory or history of the local area, California, or the nation. The buildings are not eligible for listing on the NRHP or CRHR under Criterion D/4.

Aspects of Integrity

The buildings at 493-495 and 495 ½ W. San Carlos Street retain integrity of location since they have not been moved. The buildings retain their integrity of association and feeling since they have been used for commercial (493-495) and residential (495 ½) purposes since they were built. The house retains its residential scale and continues to illustrate the early 20th century Craftsman architecture. The buildings retain sufficient integrity of design, materials, and workmanship. Integrity of setting has been compromised by the construction of freeways, the surrounding blocks' change from residential to commercial/light industrial, and the addition of multi-unit residential complexes.

City of San José City Landmark Evaluation

The following is an evaluation of the buildings against the City of San José's Historic Landmark Designation Criteria, as outlined in the San José Municipal Code Section 13.48.100 H. As discussed below, the buildings at 493-495 and 495 ½ W. San Carlos Street do not meet any of the City of San José's Historic Landmark Designation Criteria.

1. *Its character, interest or value as part of the local, regional, state or national history, heritage or culture;*
   Although the buildings are associated with the early 20th century residential and commercial development of W. San Carlos Street and San José, they are not eligible under this criterion.

2. *Its location as a site of a significant historic event;*
   The buildings are not linked specifically to any significant historic events.

3. *Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;*
   There is no person of significance individually associated with the buildings.

4. *Its exemplification of the cultural, economic, social or historic heritage of the City of San José;*
   While the buildings are associated with downtown San José's and W. San Carlos Street's residential and commercial development during the early 20th century, they do not exemplify the cultural, economic, social, and historic heritage of San José to a significant level. The property is also associated with the Italian population of San José who immigrated to the City and the Santa Clara Valley during the late 19th and early 20th centuries. The property was owned and occupied by the LoBono family for a few decades; however, it does not individually exemplify the cultural

or social history of San José.

5. *Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;*
   The buildings do not exhibit a particular architectural style that can be associated with a group of people during a particular period in history.

6. *Its embodiment of distinguishing characteristics of an architectural type or specimen;*
   Constructed and expanded in the 1920s, the store at 493-495 W. San Carlos Street does not embody distinguishing characteristics of an architectural type or style. It is a modest structure with some Mission Revival influences as exhibited in its shaped parapet and stucco cladding.

   Constructed in 1923, the house at 495 ½ W. San Carlos Street is a modest example of a Craftsman style single-family house in San José. It embodies some elements of the Craftsman style including its low-pitched gable roof with braces and exposed rafters, wide roof overhang, double-hung windows, partial porch, and exterior cladding. The design is characteristic of the early 20th century buildings in the Delmas neighborhood; however, it does not embody distinguishing characteristics of an architectural type or style that would make it eligible as a City Landmark.

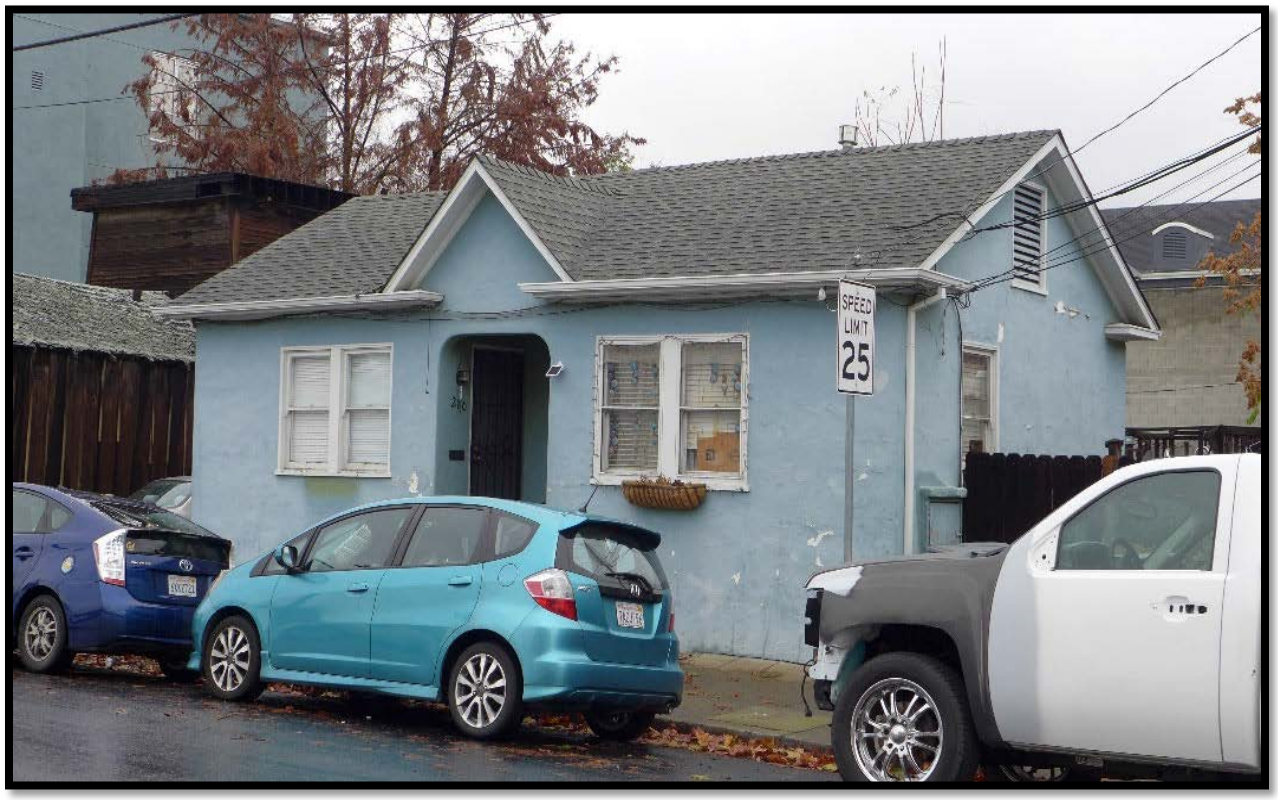
7. *Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;*
   No architect, designer or builder has been identified for the house at 495 ½ W. San Carlos Street or the commercial building at 493-495 W. San Carlos Street.

8. *Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.*
   The buildings did not make use of architectural innovations, but rather used typical building materials and details of the time.

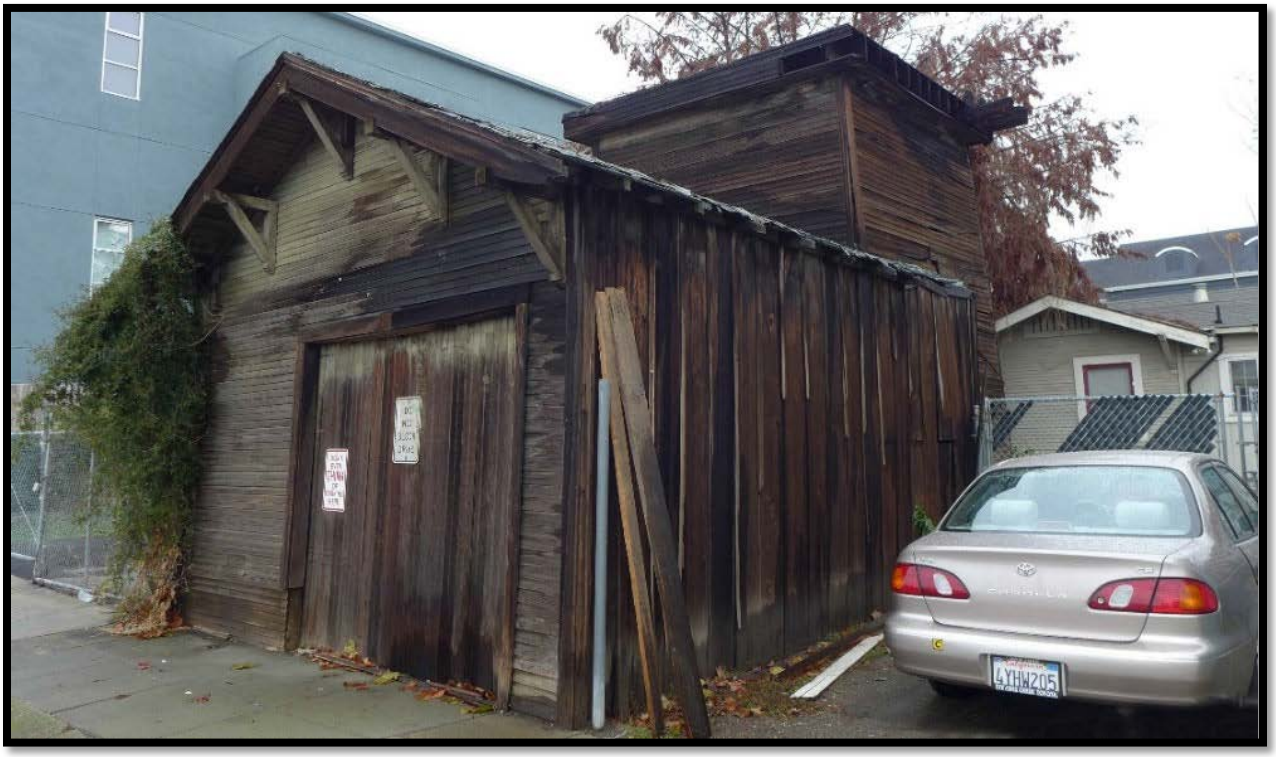
In conclusion, the buildings at 493-495 and 495 ½ W. San Carlos Street cannot be considered historic resources since they are not individually eligible for listing in the CRHR, NRHP, or as a Candidate City Landmark.

497-499 W. San Carlos Street and Accessory Structures. The parcel at the intersection of W. San Carlos and Josefa streets features three structures: a mixed-use building at the southwest corner at 497-499 W. San Carlos Street, a duplex at 280-282 Josefa Street, and a tankhouse at the northwest corner. The one-story mixed-use building at 497-499 W. San Carlos Street (pictured below) was developed in 1905. This building is an example of the Neoclassical cottage. The building features round porch columns, front dormer, and grouped windows. Oscar A. Clark constructed the mixed-use building at 497-499 W. San Carlos Street.

The one-story duplex at 280-282 Josefa Street (pictured below) is rectangular in plan and is of wood frame construction. The building maintains textured stucco cladding and an asphalt shingle-clad gable roof. Converted from a storage unit to a duplex in 1941, the building does not have a definite architectural style.



To the north of 280-282 Josefa Street is a two-story tankhouse (pictured below) that is square in plan with tapered walls. The wood frame structure features an asphalt shingle-clad gable roof over the garage and a flat roof over the tankhouse. The tankhouse and the attached garage on Josefa Street are utilitarian structures with no definite architectural style. Constructed ca. 1905 the tankhouse on Josefa Street appears to have been built in support of the house, store and yard needs rather than for the former "cultivated field" on site. The tankhouse is located close to the residence and store and was attached to the garage, rather than being father out within what had been the agricultural field. The smaller size of the tankhouse indicates is was for personal, domestic use, similar to those shown within neighboring properties on the Sanborn maps.



Tankhouses

A typical tankhouse, usually two or three stories tall, was comprised of a tower structure and topped by an exposed water tank or an enclosed tankroom. The enclosed tower provided room(s) below for storage. The earliest walled tankhouses were for hotels, hospitals and other businesses who constructed elevated water tanks. Enclosing the towers with walling material made them more attractive to the public and provided storage space beneath the tank platform. Tankhouses were not only for businesses; they were also built by California farmers and town residents to supply their domestic water needs. Because this water supply system was primarily for the house and yard needs, the tankhouse was typically placed close to the house rather than out in a field.

Domestic tankhouses in California, which can be classified as vernacular rather than architecturally designed structures, were built from the late 1870s to the 1940s during a time of rapid urbanization. Although they are mostly associated with farming communities, it was also common to find them in more urban residential settings to supply domestic water needs.

A quick study of the early 20th century Sanborn maps provides information on the nearby tankhouses, or "water tanks" as they were labeled on the maps. The 1915 Sanborn map of the surrounding blocks illustrates ten tankhouses within the vicinity of 497-499 W. San Carlos Street, the six city blocks bounded by Delmas Avenue, Auzerias Avenue, Josefa Street, and Park Avenue. Most of the water tanks were elevated on top of two- to three story towers, and majority of the tankhouses were attached to another one-story accessory structure. By 1950, the number of tankhouses dropped to four, including the structure on Josefa Street whose water tank appears to have been removed by then. By 1966, there were only two tankhouses depicted on the map. Today, the tankhouse on Josefa Street is the only remaining structure of this type in the area.

NRHP/CRHR Evaluation

The parcel at 497-499 W. San Carlos Street was developed ca. 1905. Although the buildings, including the mixed-use corner building, the duplex, and the tankhouse, were constructed during the W. San Carlos Street's first wave of development, the properties are not associated with the residential or commercial development of W. San Carlos Street, the Delmas neighborhood, or the city of San José in an individually significant way. Therefore, the properties are not eligible for listing on the NRHP or CRHR under Criterion A/1. None of the owners or occupants have been identified as important to the history of San José or California. Therefore, the buildings are not eligible for listing on the NRHP or CRHR under Criterion B/2.

The parcel is eligible for listing on the NRHP and CRHR under Criterion C/3 as a good example of an early 20th century mixed-use development property on W. San Carlos Street in San José with its Mission Revival corner store and the attached Neoclassical house, the extant tankhouse with the attached garage, and the accessory structure (former storage converted to a duplex). Overall, the extant grouping of buildings illustrated a unique example of a self-sustaining urban development at the turn of the century which includes commercial, residential, and utilitarian support structures. The period of significance would be ca. 1905, when the property was constructed. Archival research provided no indication that the buildings have the potential to yield information important to the prehistory or history of the local area, California, or the nation. The buildings are not eligible for listing on the NRHP or CRHR under Criterion D/4.

Aspects of Integrity

The structures at 497-499 W. San Carlos Street retain integrity of location since they have not been moved. The buildings retain their integrity of association and feeling since they have been used for commercial and residential purposes. The mixed-use building at 497-499 W. San Carlos retains its scale and continues to illustrate the Neoclassical architecture. However, the Mission Revival storefront at the corner has been significantly altered over time, removed, and/or replaced. The building has a significantly diminished integrity of design, materials, and workmanship. Although the tankhouse no longer features the water tank above, the structure retains enough integrity to communicate its original use. The tankhouse and the attached garage has not received any major alterations and continue to exemplify the early 20th century character of the area. Although there is no graphic documentation available, the storage unit at 280-282 Josefa Street appears to have received exterior alterations during its conversion to a duplex; therefore, it likely does not retain integrity of design. The immediate integrity of setting for the property has been retained, as the store, residence and accessory structures all maintain the original relationship to each other, however the

integrity of overall neighborhood setting has been compromised by the construction of freeways, the surrounding blocks' change from residential to commercial/light industrial and the addition of multi-unit residential complexes. Overall, the property does not retain sufficient integrity to communicate its significance under Criterion C/3 for its defined period of significance.

City of San José City Landmark Evaluation

The following is an evaluation of the building against the City of San José's Historic Landmark Designation Criteria, as outlined in the San José Municipal Code Section 13.48.100 H.

1. *Its character, interest or value as part of the local, regional, state or national history, heritage or culture;*
   The parcel was developed during the early 20th century residential and commercial development of W. San Carlos Street and the Delmas neighborhood. The buildings include a Mission Revival-inspired corner store, the attached Neoclassical house, and the accessory structures—especially the tankhouse with attached garage which is an intact example of a rare building type within residential/urban San José. The property is eligible as a City Landmark under Criterion 1 as a rare property type for its character and value as part of the local history.

2. *Its location as a site of a significant historic event;*
   The buildings are not linked specifically to any significant historic events.

3. *Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;*
   There is no person of significance individually associated with the buildings.

4. *Its exemplification of the cultural, economic, social or historic heritage of the City of San José;*
   The property is associated with the Italian population of San José who immigrated to the City and the Santa Clara Valley during the late 19th and early 20th centuries. The property was constructed and occupied by multiple Italian families throughout its history; however, it does not individually exemplify the cultural or social history of San José. The property is eligible as a Candidate City Landmark under Criterion 4 as a good example of economic and social heritage of the City of San José. The property was developed in 1905 with a combination corner store and house, a storage structure, and a tankhouse and garage. It illustrates how the lots were developed and utilized at the turn of the century.

5. *Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;*
   The buildings do not exhibit a particular architectural style that can be associated with a group of people during a particular period in history.

6. *Its embodiment of distinguishing characteristics of an architectural type or specimen;*
   Constructed in 1905, the mixed-use building at 497-499 W. San Carlos is a good example of an early 20th century mixed-use development on W. San Carlos Street in San José with its Mission Revival-inspired corner store and the attached Neoclassical house. The tankhouse and the attached garage is a rare architectural type as it is one of the few surviving in today's urban San José, especially along the W. San Carlos Street corridor, that retains a high degree of integrity.

The subject parcel also illustrates how the lots were developed and utilized at the turn of the century. Overall, the property is eligible as a Candidate City Landmark under Criterion 6 as a good example of a mixed-use building with a corner store and a tankhouse from the early 20th century.

7. *Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;*
   497-499 W. San Carlos Street was constructed by carpenter/contractor Oscar A. Clark who cannot be considered a master. No architect, designer or builder has been identified for the other structures on this parcel.

8. *Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.*
   The buildings did not make use of architectural innovations, but rather used typical building materials and details of the time.

The buildings are eligible as a San José Candidate City Landmark under criteria 1, 4 and 6 under themes of "Agriculture & Shelter" and "Commerce" as a good example of an early 20th century mixed-use property with a single-family residence, a corner store, and a combination garage and tankhouse (a rare remaining building type), constructed during the period of horticultural expansion (1870-1918). While the duplex originally dates ca. 1905 as an accessory storage structure, its significant mid-century alterations exclude the building from being a contributor to the historic property.

Adjacent Structures

There are 26 properties located within 200 feet of the project site. None of these buildings are listed under the City's Historic Resources Inventory. Refer to Appendix C for a photo and description of each property.

3.3.2 Impact Discussion

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

a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
c) Disturb any human remains, including those interred outside of dedicated cemeteries?

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory or a structure that is an eligible City Landmark.

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

A resource is considered to be historically significant by the City of San José if it is listed or meets the criteria for listing on the NRHP, CRHR, or as a Candidate City Landmark on the City's Historic Resources Inventory (HRI). As discussed above in *Section 3.3.1.2*, no recorded historical resources have been previously identified within the project site or within 200 feet of the subject parcels. The properties at 497-499 W. San Carlos Street and tankhouse structure (APN 259-47-015) have been determined to be eligible as a San José Candidate City Landmark under criteria 1, 4, and 6; and therefore, they are considered a historical resource.

The proposed project would demolish all existing structures on the project site and construct an eight-story hotel building resulting in a significant impact on a historic resource.

Impact CUL-1: Implementation of the proposed project would result in the demolition of two historic structures that are eligible for Candidate City Landmark status, the mixed-use building at 497-499 W. San Carlos Street and the tankhouse on the project site.

Mitigation Measures

MM CUL-1.1: Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps, actions, and documents have been satisfied for each historic structure in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants.

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

A. Drawings – Prepare sketch floor plans of the buildings and site plan.

B. Photographs – 35 mm digital photographs meeting the digital photography specifications.

C. Written Data – a historical report with the history of the property, property description and historical significance.

A qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data.

The documentation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer.

MM CUL-1.2: Documentation (Digital Scans): Prior to issuance of any certificates of occupancy, the structures and associated features on the project site shall be documented by a qualified architectural historian through a series of digital scans and video production. The architectural historian shall meet the Secretary of the Interior's Professional Qualification Standards. A plan of the proposed procedures for the digital scans shall be submitted to the City's Historic Preservation Officer or equivalent prior to commencement of preparing the digital scans for review and approval.

MM CUL-1.3: Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

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

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

preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved.

3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move.

4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for the long-term preservation and reuse.

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

MM CUL-1.4: Salvage: If the project applicant and/or a third party cannot agree to relocate any of the four structures within the specified time, the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials prior to the issuance of any demolition permits. The time frame available for salvage shall be established by the City's Historic Preservation Officer in accordance with the Action Plan. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

MM CUL-1.5: Deconstruction/Reverse Construction: Prior to and during demolition activities, all structures and associated features being salvaged and demolished shall be documented, photographed, and videoed by a qualified architectural historian showing in reverse the original methods of construction and use of materials.

Implementation of the proposed project would result in significant unavoidable impacts to historic resources. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or

paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Per the Downtown Strategy 2040 FEIR, most prehistoric archaeological sites have been found along or very near fresh water sources, adjacent to the major Native American trails, and near stone sources in the foothills. The subsurface sensitivity is moderate to high within the Downtown Strategy 2040 area. The site is located approximately 0.1 mile west and 0.3 mile east of Los Gatos Creek and Guadalupe River, respectively. Demolition of existing structures and pavement could damage as yet unrecorded subsurface resources. As stated in *Section 3.3.1.2*, literature review completed for the adjacent apartment complex identified the area to be archaeologically sensitive.

Consistent with the Downtown Strategy 2040 FEIR, the following Standard Permit Condition shall be applied to the project to reduce and avoid impacts to as yet unidentified archaeological resources:

Standard Permit Conditions

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall: (1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to the issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

With implementation of the Standard Permit Condition listed above, impacts to unknown subsurface cultural resources would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) Would the project disturb human remains, including those interred outside of dedicated cemeteries?

The proposed project would not include any substantial excavations (except for trenching for utilities) since no below-grade parking is proposed. Nevertheless, the proposed project would be required to implement the following Standard Permit Conditions identified in the Downtown Strategy 2040.

Standard Permit Conditions

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per

Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following condition occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

With implementation of the Standard Permit Conditions listed above, redevelopment of the site would have a less than significant impact on human remains, including those interred outside of dedicated cemeteries. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.3.2.1 *Cumulative Impacts*

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

Historic Structures

Implementation of the proposed project would result in the loss of mixed use building at 497-499 W. San Carlos Street and tankhouse that are eligible as a historical resource under CEQA. A review of the City's Historic Resources Inventory does not show any specific buildings or group of buildings of the same architectural style, period of significance, and purpose within the downtown. Given that the project would demolish both the mixed-use building and the tankhouse, the loss of these structures would be cumulatively considerable.

Subsurface Resources

The cumulative projects analyzed in this Draft EIR (Table 3.0-1) may require excavation and grading or other activities that may affect unknown prehistoric cultural resources and/or historic resources. Impacts to subsurface resources would be mitigated to less than significant with implementation of the Downtown Strategy 2040 FEIR measures and identified standard permit conditions. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not a have cumulatively considerable impact on subsurface archaeological resources.

While the project would not have a cumulatively considerable impact on subsurface archaeological resources, the demolition of the mixed-use building and the tankhouse would be cumulatively considerable. **[New Cumulative Significant Unavoidable Impact (Cumulative Significant Unavoidable Impact)]**

3.4 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on a Greenhouse Gas Reduction Strategy (GHGRS) compliance checklist prepared by the project applicant in January 2021. A copy of this checklist is attached as Appendix D to the SEIR.

3.4.1 Environmental Setting

3.4.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

3.4.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as Assembly Bill (AB) 32, the California Air Resources Board (CARB) established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that Statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 Statewide target in terms of million metric tons of carbon dioxide equivalent ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 Statewide target emissions level for California is 260 MMTCO2e.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission partnered with the Association of Bay Area Governments, BAAQMD, and Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area. Plan Bay Area establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). The project site is located within a PDA.

Regional

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin utilize the

thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Local

City of San José Municipal Code

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

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

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development under the proposed Downtown Strategy 2040 would be subject to this policy.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San Jose Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Reach Code Ordinance

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging

infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for reducing or avoiding impacts related to greenhouse gas emissions, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to Sections 3.1 Air Quality of this SEIR, and Sections 4.7 Energy and 4.18 Transportation of Appendix A for these policies.

General Plan Policies - GHG Emissions	
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[10]

3.4.1.3 *Existing Conditions*

The existing land uses on the project site include two mostly vacant single-story retail uses, three residences (including a single-family home, a mixed-use building, and a duplex) and a tankhouse. These uses produce low operational and traffic emissions which would not considerably offset emissions from the proposed project. The project site is not located within a PDA.[11]

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, would the project:

a) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

Thresholds of Significance

As previously noted, projects that are consistent with the City's adopted GHGRS would have a less than significant impact related to GHG emissions through 2030.

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

GHG emissions associated with development of the proposed project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal. The impact of GHG emissions were addressed in the Downtown Strategy 2040 FEIR and found to be significant and unavoidable under 2040 conditions. Emissions for the proposed project are discussed below.

[11] City of San José. "Regulated and Special Projects." Accessed October 15, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/stormwater-management/regulated-and-special-projects

Construction

The proposed development would result in a temporary increase in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Based on CalEEMod calculations, the project would emit a total of approximately 359 MT/year of CO_2e. Because construction would be temporary (approximately 19 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 in 2020 or SB 32 in 2030.

Operation

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site, planned growth from build out of the Downtown Strategy 2040 FEIR, compliance with the mandatory measures and voluntary measures required by the City, and compliance with the 2030 Greenhouse Gas Reduction Strategy (GHGRS), the project would result in a less than significant GHG emissions impact.

Construction of the proposed project would be temporary and would result in a less than significant impact related to the implementation of AB 32 and SB 32. During operations of the proposed project, the project would comply with mandatory and voluntary measures required by the City and would comply with the 2030 GHGRS, therefore, the project would result in a less than significant GHG emissions impact. **[Less Impact than Approved Project/Less than Significant Impact (Significant Unavoidable Impact)]**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

Consistency with 2030 San José Greenhouse Gas Reduction Strategy

As discussed in *Section 3.4.1.2, Regulatory Framework*, the project would be subject to the City's recently approved 2030 GHGRS which was adopted after a project-level GHG analysis was prepared for the proposed project.

The 2030 GHGRS identifies required General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Compliance with these mandatory policies and strategies and any voluntary measures proposed by the project ensure a project's consistency with the GHGRS. The proposed project is consistent with the Land Use/Transportation Diagram designation of *Downtown.* The project proposes a General Plan Amendment to allow for increased height to accommodate the 95 feet proposed hotel building to be consistent with the proposed DSAP Amendment and the Downtown Strategy 2040 (see *Section 4.12 Land Use and Planning* of

Appendix A). The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and California Building Code (CBC) requirements as well as General Plan GHGRS policies. The proposed project incorporates applicable mandatory measures of the GHGRS (refer to Appendix D), including connections to existing bike and pedestrian facilities, and planting and retention of trees to reduce energy use. The proposed project would be required to comply with the Reach Code which aligns with Climate Smart San José goals. In addition, all new development (including the proposed project) would be required to be designed for energy efficiency and conservation per Climate Smart San José. The project proposes to install solar hot water and would include high-efficiency appliances/fixtures. The project would comply with Building Energy Efficiency Standards (Title 24) and the City's Green Building Ordinance and the most recent CALGreen requirements.

The proposed project would be designed to achieve LEED Silver certification. The proposed project would be consistent with applicable GHGRS strategy and consistency options intended to reduce GHG emissions.

Climate Smart San José

Climate Smart San José, adopted by the City, is a communitywide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in *Section 4.7 Energy* of Appendix A, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City which is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The proposed project would be consistent with the City's climate action goals in Climate Smart San José and would be consistent with the applicable GHGRS strategy and consistency options intended to reduce GHG emissions. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.4.2.1 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a GHG emissions impact?

The discussion above addresses the project's contribution to the cumulative GHG emissions impacts on a regional, statewide, and global basis. Cumulatively considerable GHG emission impacts from cumulative development in San José would be avoided by implementing measures included in the

City's GHGRS and Climate Smart San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.5 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part upon Phase I and Phase II Environmental Site Assessment reports prepared by *Cornerstone Earth Group* in May 2019 and June 2020, respectively. Copies of these reports are attached as Appendix F to this SEIR.

3.5.1 Environmental Setting

Hazardous Materials Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. The California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

3.5.1.1 *Regulatory Framework*

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[12]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials and Lead-Based Paint

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

The U.S. Consumer Product Safety Commission banned the use of lead-based paint (LBP) in 1978. Removal of older structures with LBP is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If LBP is peeling, flaking, or blistered, it is required to be removed prior to demolition.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

[12] California Environmental Protection Agency. "Cortese List Data Resources." Accessed May 28, 2020. https://calepa.ca.gov/sitecleanup/corteselist/.

Local

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials, as listed below.

General Plan Policies - Hazards and Hazardous Materials	
Environmental Contamination	
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans

General Plan Policies - Hazards and Hazardous Materials	
	prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Safe Airport	
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-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Community Health, Safety, and Wellness	
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

3.5.1.2 *Existing Conditions*

The project site is currently developed with two single-story commercial buildings, a single family home, a duplex, a mixed-use building, a one-story accessory structure (the tankhouse and the attached garage) and an asphalt-paved parking lot. Groundwater on-site has been encountered at a depth of approximately 15 to 25 feet below the ground surface (bgs) and flows in the northeast direction. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Historic Uses of the Project Site and Surrounding Land Uses

A land use history of the site was compiled based on aerial photographs, Sanborn Fire Insurance Maps, City directories, and regulatory agency records. In 1881, the project site was developed with a dwelling and a shed. Between 1889 and 1915, no structures were shown on the site. In 1915, the site is shown to be developed with two dwellings, a store, detached garages, a stable, a storage structure and two elevated water tanks (one of which is the existing pump house structure). The site appears to be developed with commercial and residential structures between 1939 and 1976. By 1950, two additional dwellings (270 Josefa Street and 493½ West San Carlos Street) and a commercial building occupied by two stores (493 and 495 West San Carlos Street) are depicted on-site, and the storage structure was converted to two dwellings (280 and 282 Josefa Street). The commercial space at 499 West San Carlos is noted to have been occupied by a photo studio (1950s) and a sign painting business (1966). Between 1953 to 1980, the site is shown within the urban developed area of San José. By 1982, dwellings at 270 Josefa Street and 491 West San Carlos Street were removed and replaced by the existing parking lot and commercial building. The site appears generally similar to the existing conditions.

On-Site Sources of Contamination

Based on the Phase I ESA, none of the properties on-site are listed in any regulatory databases. Given the age of the structures on-site, however, ACMs and LBP are likely present on-site. Soils adjacent to structures that are painted with LBP can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Soil near wood framed structures also can be impacted by pesticides historically used to control termites. The Phase II ESA identified high levels of lead in five soil samples at concentrations that exceeded the residential ESL but were less than the commercial ESL. The source of the elevated lead is unknown but is likely limited to the shallow reworked soil associated with the property's long development history and the occurrence of LBP residue and/or other building materials. This shallow reworked soil layer would largely be removed for building slab and foundations and after redevelopment the site would be capped by the new building and hardscape surfaces.

Off-Site Sources of Contamination

507 West San Carlos Street

San José Cleaners was identified at 507 West San Carlos Street (located across Josefa Street approximately 70 feet southwest of the project site) as a closed leaking underground storage tank (LUST) case. This facility is upgradient to the project site and appears to have operated as a dry-cleaning business from the 1940 to 1994. Four hydrocarbon solvent underground storage tanks (USTs) were removed from San José Cleaners in 1989. No significant impacts to soil quality were identified, however, no analyses for benzene, toluene, ethylbenzene or xylenes (BTEX) or other volatile organic compounds (VOCs) were performed, and groundwater quality was not evaluated.

496 West San Carlos Street

Majestic Investments at 496 West San Carlos Street (located across West San Carlos Street, approximately 180 feet to the southeast of the project site) is upgradient to the project site and was identified as a dry-cleaning facility that operated during the 1970s. Impacts to soil, soil vapor and groundwater quality associated with the use of dry-cleaning chemicals (e.g., tetrachloroethene [PCE]) often are identified at dry-cleaning businesses. This site was not listed as a reported spill incident.

Summary

Although no information was identified during the Phase I ESA pertaining to a release of these chemicals to soil or groundwater, an additional soil and groundwater evaluation was conducted to evaluate if groundwater impacted by VOCs exists beneath the site or if elevated concentrations of lead and/or organochlorine pesticides (OCPs) were present in shallow soil. The results are shown below:

- Lead was detected in 10 of 10 soil samples analyzed at concentrations ranging between 7 and 300 milligrams per kilogram (mg/kg). Five samples contained lead concentrations that exceeded its residential ESL of 80 mg/kg. No concentrations exceeded its commercial ESL of 320 mg/kg.
- OCP compounds were detected but at concentrations that were below their respective residential ESLs. All other OCPs were not detected above their laboratory reporting limits.

- PCE and its breakdown products and total petroleum hydrocarbons (TPH) were not detected above laboratory reporting limits in the grab groundwater samples

Other Hazards

Airports

Norman Y. Mineta San José International Airport (Airport) is located two miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is not located within the Airport Influence Area (AIA) or a CLUP-designated safety zone. The project is not located in the vicinity of a private airstrip.

Wildfire Hazards

According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located in a fire hazard zone or the Wildland Urban Interface.[13]

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

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

[13] CalFire. "California Fire Hazard Severity Zone Map Update Project". Accessed September 23, 2020. https://gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414.

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction of the proposed project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards and regulations. Construction-related hazardous materials use would be temporary, and does not constitute routine transport, use, or disposal.

The proposed hotel project would routinely use limited amounts of cleaning materials that would be handled, stored, and disposed of in accordance with state regulations. The project would not include activities that would emit hazardous emissions or use acutely hazardous materials; therefore, the project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Soil Contamination

Cornerstone's Phase I ESA identified two former dry-cleaner facilities near the project site. As mentioned in *Section 3.5.1.2*, impacts to soil, soil vapor and ground water quality associated with the use of dry-cleaning chemicals are often identified at dry-cleaning businesses.

Based on the age of previous structures at the site, LBP and termiticides (pesticides) may have been used leaving residual concentrations in soil. Soil adjacent to structures that are painted with lead-containing paint can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Soil near wood framed structures also can be impacted by pesticides historically used to control termites. To perform a preliminary evaluation of whether shallow soil had been impacted by prior uses and activities on and adjacent to site, a total of 10 soil samples were collected from five accessible locations and were analyzed for organochlorine pesticides (OCPs) and lead.

As discussed in *Section 3.5.1.2* above, OCPS were not detected in either soil type at concentrations above residential screening criteria. Lead was detected in five soil samples at concentrations that exceeded its residential ESL but were less than the commercial ESL. The source is not known but likely is limited to the shallow reworked soil associated with the property's long developed history and the occurrence of LBP residue and/or other building materials in the shallow networked soil.

Impact HAZ-1: Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and expose construction workers and nearby land uses. **(Significant Impact)**

Mitigation Measures: In conformance with local, State, and federal regulations and program mitigation in the certified Downtown Strategy 2040 FEIR, the project shall implement the following

mitigation measures to reduce soil contamination impacts associated with redevelopment of the site to a less than significant level.

MM HAZ-1.1: Prior to issuance of any grading or excavation permits, the project applicant shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel. The SMP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH) for review and approval.

Proof of the approved SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer prior to issuance of grading or excavation permits.

MM HAZ-1.2: If the contaminated materials are planned to be capped during construction by site improvements (landscape beds, buildings, pavements, turf sections, etc.), it should be included in the SMP or similar document, for the approval under the regulatory oversight of the SCCDEH. If the contaminated soils are planned to be removed from the site, these shall be hauled off-site and disposed of at a licensed hazardous materials disposal site in accordance with applicable regulatory requirements. Capped areas (if and as included in the SMP) will require institutional controls which may include a deed restriction for the affected areas and an operations and maintenance (O&M) Plan.

The O&M plan shall be provided to SCCDEH for approval and the approved O&M plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer, prior to any demolition, grading permits or ground disturbing activities.

The site-specific mitigation measures identified above address the further characterization of soil contamination impacts previously disclosed on the project site by the Downtown Strategy 2040 FEIR. With the implementation of the above measures, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Implementation of these site-specific measures is consistent with the mitigation measures approved in the Downtown Strategy 2040 FEIR and with expected contamination types and levels in a developed urban area. With implementation of the required mitigation measures the project would have a less than significant hazardous materials impact.

Groundwater Quality

Although no information was identified during the Phase I ESA pertaining to a release of these chemicals to soil or groundwater, an additional groundwater quality evaluation was conducted to evaluate if groundwater impacted by VOCs exists beneath the site. Laboratory analysis of groundwater samples did not detect PCE and its breakdown products and TPH above laboratory reporting limits. Based on this data, groundwater beneath the site is not impacted by the nearby former dry-cleaner operations.

Asbestos-Containing Materials and Lead-Based Paint

Due to the age of the existing structures on-site, building materials may contain ACMs and/or LBP. If the existing structures are demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos. If LBP is still bonded to the building materials, its removal is not required prior to demolition. If the LBP is flaking, peeling, or blistering, it shall be removed prior to demolition. It would be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately.

Demolition of the existing structures on-site could expose construction workers or occupants of adjacent buildings to harmful levels of ACMs or lead. The project would be required to implement the following Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or LBP.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

The Downtown Strategy 2040 FEIR concluded that conformance with regulatory requirements would result in a less than significant impact from ACMs and LBP.

The proposed project would implement regulatory requirements which would result in a less than significant impact from ACMs and LBP during the construction phase. Additionally, the proposed project would implement mitigation measures MM HAZ-1.1 and 1.2 to reduce the impacts of soil contamination present on the project site to a less than significant level. With the implementation of the above measures, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

There are no schools located within a quarter mile of the project site. In addition, while trucks may transport hazardous materials or contaminated soils to or from the site during construction, the truck routes would be limited to primary roadways and would not include secondary roadways where any local schools are located. The project, therefore, would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **[Less Impact than Approved Project (Less than Significant Impact)]**

d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?

Pursuant to Government Code section 65962.5, the project site is not on the Cortese List.[14] Therefore, the project would have a less than significant impact to the public and/or environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

[14] CalEPA. "Cortese List Data Resources." Accessed October 4, 2020. https://calepa.ca.gov/sitecleanup/corteselist/

e) If located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FAR Part 77 sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing reflective surfaces, flashing lights, electronic interference, and other potential hazards to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by a set of imaginary surfaces radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure taller than approximately 70 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

The proposed project would have a maximum height of 84.5 feet to the rooftop and 95 feet to the parapet, which is above the minimum height that would require FAA airspace review. As mentioned previously, the project site is not located within the AIA or a CLUP-defined safety zone.
The applicant would be required to implement the following Standard Permit Condition to ensure that the project does not result in a safety hazard.

Standard Permit Conditions

- Prior to the issuance of a development permit for any project structures that would exceed the FAA imaginary surface applicable to the project site, the following actions shall be accomplished (2040 General Plan Polices TR-14.2 and CD-5.8):
  - The applicant shall comply with the notification requirements of Federal Aviation Regulations, Part 77, and receive a "Determination of No Hazard" from the FAA.
  - Conditions set forth in the required FAA determination of No Hazard regarding roof-top lighting or marking shall be incorporated into the final design of the structure.

Implementation of the Standard Permit Condition above would ensure that the project does not result in a safety hazard due to activities of the Norman Y. Mineta San José International Airport. **[Same Impact as Approved Project (Less Than Significant Impact)]**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The project proposes to redevelop an urban site without modifying the existing roadway network. The project would be constructed in accordance with current building and fire codes in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. The proposed project would not impair or interfere with the implementation of the City's Emergency Operations Plan or any statewide emergency response or evacuation plans. **[Same Impact as Approved Project (Less Than Significant Impact)]**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

The proposed project is located in an urban area and is not in a designated fire hazard severity zone. The proposed project would not expose future site users or the proposed building to wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.5.2.1 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant hazards and hazardous materials impact?

Cumulative projects in the City of San José are likely to be proposed on sites that were previously developed with industrial or commercial uses. It is possible that hazardous materials may have been stored and used on, and/or transported to and from some of these properties as part of the use of the sites. Historical or current hazardous materials use could result in residual soil and/or groundwater contamination related to petroleum products, leaking storage tanks, or chemical releases. Contamination on sites proposed for future projects in the City could have impacts on the health and safety of construction workers, adjacent uses, and future site occupants.

In addition, many of the properties in San José and surrounding cities were used for agricultural purposes prior to their development for industrial and residential uses and agricultural chemicals such as pesticides and fertilizers may have been used on-site in the past. The use of these chemicals can result in widespread residual soil contamination, sometimes in concentrations that exceed regulatory thresholds. In addition, development and redevelopment of some of the sites may require demolition of existing buildings that may contain ACMs and/or lead paint. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of asbestos or lead.

Based on the above-described conditions, which are present on most project sites to varying degrees, potentially significant environmental impacts could occur under the cumulative development scenario since such conditions can lead to the exposure of residents and/or workers to substances that have been shown to adversely affect health. Each of the cumulative projects under consideration would be required to assess the potential for past or current hazardous site conditions to affect, or be affected by, the proposed project. In accordance with General Plan policies, cumulative projects would include mitigation measures or permit conditions to reduce potential impacts from the project to the health and safety of the public and the environment. Measures would include incorporating the requirements of applicable existing local, State, and federal laws, regulations, and agencies such as DTSC and Cal/OSHA, during all phases of project development. By adhering to federal and State regulations, City policies, and the mitigation measures set forth in this section, the proposed project would not result in a significant hazardous materials impact, nor would it result in a cumulatively considerable contribution to a significant hazards and hazardous materials impact. **[Same Impact as Approved Project (Less than Significant Cumulative Impact)]**

3.5.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing hazards and hazardous materials conditions affecting a proposed project.

General Plan Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users and provide as part of the environmental review process.

A Phase I and Phase II ESA were prepared for the site. As discussed under Impact HAZ-1, the project shall implement Mitigation Measures HAZ-1.1 and HAZ-1.3 to ensure that construction workers and future site users would not be exposed to any soil or groundwater contamination from off-site sources and former uses of the site. In addition, standard measures to reduce impacts due to the presence of ACMs and/or LBP would protect the construction workers or occupants of adjacent buildings to harmful levels of ACMs or lead. As a result, the proposed project would not result in human health and environmental hazards to future site users consistent with Policy EC-7.2.

3.6 NOISE

The following discussion is based upon a Noise and Vibration Assessment prepared by *Illingworth and Rodkin* in June 2020 and updated in November 2020. A copy of this report is attached as Appendix G of this SEIR.

3.6.1 Environmental Setting

3.6.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are almost always expressed using one of several noise averaging methods, such as L_{eq}, DNL, or CNEL.[15] Using one of these descriptors is a way for a location's overall noise exposure to be measured, given that there are specific moments when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

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

3.6.1.2 *Regulatory Background*

State

California Building Standards Code

The California Building Standards Code (CBC) establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 dBA DNL or CNEL in any habitable room, including hotel rooms. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, industrial source or fixed-guideway noise source.

Local

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.6-1 below.

Table 3.6-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)

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

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

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

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

In addition, various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

General Plan Policies - Noise and Vibration	
Policy EC-1.1	Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

General Plan Policies - Noise and Vibration	
Policy EC-1.9	Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
Policy EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
Policy EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

3.6.1.3 *Existing Conditions*

Ambient Noise

Due to the COVID-19 pandemic, a current noise monitoring survey which would characterize the noise environment of the site was not conducted for this study. Based on review of Google Earth and the Downtown Strategy 2040 FEIR, the existing noise environment at the project site and in the surrounding area results primarily from local vehicular traffic along West San Carlos Street. At upper stories with reduced shielding from surrounding structures, vehicular traffic along State Route 87 (SR 87) and Interstate 280 (I-280) also act as primary noise sources. Secondary noise sources include vehicular traffic along Josefa Street and aircraft associated with the Norman Y. Mineta San José International Airport. The San José Diridon Station rail depot and railroad tracks used by Caltrain, the VTA, Amtrak, Union Pacific, and the Altamont Corridor Express are located approximately 1,100 feet west of the project site. At this distance, train noise does not significantly contribute to the noise environment at the site. The Federal Transportation Authority's Transit Noise and Vibration Impact Assessment Manual estimates noise exposure from railroad lines at a distance of 800 feet and up to be 45 dBA DNL.

The Downtown Strategy 2040 FEIR provides measurement data for a long-term receptor approximately 1,750 feet southwest of the project site. Data at this location was collected from Wednesday, February 21, 2018 through Friday, February 23, 2018. Hourly average noise levels at this location typically ranged from 67 to 75 dBA Leq during the day and from 58 to 69 dBA Leq at night. The day-night average noise level was 73 dBA DNL originating from both traffic on San Carlos Street and nearby rail operations. The existing noise environment at the project site exceeds the City's exterior noise goal of 60 dBA DNL for residential uses. The location of this measurement is at 699 West San Carlos Street (LT-1) approximately 1,900 feet from the project site.

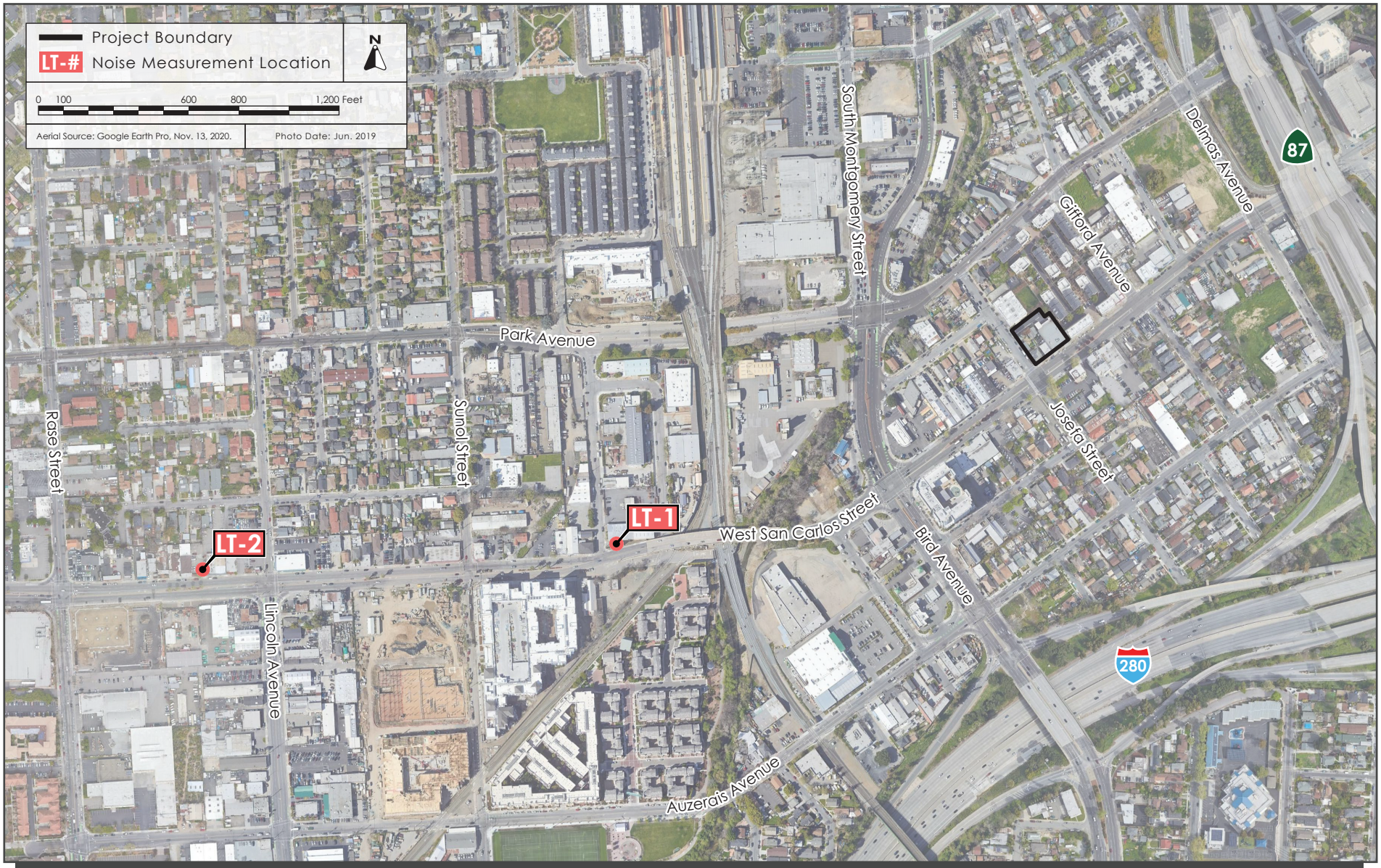
Illingworth & Rodkin, Inc. conducted an additional long-term noise measurement approximately 55 feet from the centerline of West San Carlos Street and approximately 3,300 feet west of the project site. Data at this location was collected from Tuesday, March 1, 2016 through Thursday, March 3, 2016. Hourly average noise levels ranged from 63 to 69 dBA Leq during the day and from 53 to 66 dBA Leq at night. The day-night average noise level was 69 dBA DNL. The location of this measurement is at 1101 West San Carlos Street, approximately 3,200 feet from the project site (LT-2). Noise levels at locations LT-1 and LT-2 (see Figure 3.6-1) are anticipated to be higher than those at the project site due to decreased traffic volumes as West San Carlos Street continues east, towards the site, and past Lincoln Avenue and Bird Avenue (as indicated in traffic data provided for the Downtown Strategy 2040 FEIR), due to LT-1 having greater exposure to train noise, and due to the project site having a greater setback from West San Carlos Street.

Noise modeling of the site was conducted using SoundPLAN, a three-dimensional noise modeling software that considers site geometry and the characteristics of noise sources. The model utilized traffic (2018) and geometric inputs from the Downtown Strategy 2040 FEIR. Based on the modeling results, the existing noise level at the site is estimated to be 66 dBA DNL at the setback of the proposed building to San Carlos Street. The project site is located just outside of the 60 dBA CNEL aircraft noise contour of the Norman Y. Mineta San José International Airport. With the contribution from aircraft noise, noise levels at the setback of the hotel to San Carlos Street are estimated to be 67 dBA DNL. This noise level is consistent with measurements made in the area, as described above.

Noise-sensitive uses surrounding the site include adjacent multi-family residences approximately 90 feet from the center of construction to the northeast, residences approximately 100 feet to the northwest, commercial uses approximately 100 feet to the east, commercial uses approximately 140 feet to the southwest across Josefa Street, residences approximately 180 feet to the northwest across Josefa Street, and commercial uses approximately 180 feet to the southeast across West San Carlos Street. These surrounding uses fall within the City's significant noise impact ranges of 200 feet for commercial or office uses and 500 feet for residences.

Groundborne Vibration

Groundborne vibration is not substantial at the project site due to the location of the project site in relation to sources of vibration. The project site is further than 100 feet from rail lines, therefore vibration at the project site does not exceed FTA guidelines in the existing condition as described in the City's General Plan Policy EC-2.1.



NOISE MEASUREMENT LOCATIONS | FIGURE 3.6-1

3.6.2 Impact Discussion

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

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

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of 3 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of 5 dBA DNL or greater is considered significant.

City of San José Standards

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

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or 5 dBA DNL or more where noise levels would remain "Normally Acceptable".

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 mm/sec (0.5 inches/sec), PPV for buildings structurally sound and designed to modern engineering standards. A conservative vibration limit of 5 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structurally sound but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of two mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

Noise Impacts

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed in accordance with General Plan policies and Zoning Ordinance requirements. Noise impacts would be less than significant, consistent with the Downtown Strategy 2040 FEIR as described below.

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

As discussed above in *Section 3.6.1.3*, the existing noise environment at the project site exceeds the City's exterior noise goal of 60 dBA DNL for residential uses as a result of transportation noise sources in the project area (i.e., local traffic, railroad pass-bys, and aircraft) and downtown activities. The project proposes to construct a 175-room hotel. Operational noise generated by the proposed project would be the result of vehicles traveling to and from the site and the project rooftop heating, ventilation, and air conditioning (HVAC) equipment. The project site is currently developed with commercial businesses and residences with relatively low traffic; as a result, the noise generated by existing operations on the project site currently contribute on a limited basis to the ambient noise environment.

Mechanical Equipment

Rooftop Equipment

Typical heat pumps for a building this size would generate noise levels of approximately 56 dBA at three feet during operation. Without knowing where the pumps would be located, it is assumed that all pumps for the proposed buildings would be located on the rooftop. Based on the plans provided by the applicant, it is assumed that the rooftop equipment would be 84 feet above-ground. Noise

levels produced by a typical air conditioning condenser are approximately 66 dBA at three feet during operation. These types of units typically cycle on and off continuously during daytime and nighttime hours. Therefore, multiple units clustered in the same general vicinity are usually operating simultaneously at any given time. HVAC noise sources were added to the SoundPLAN model assuming six heat pumps and six air conditioner units would operate simultaneously. Assuming all mechanical equipment would be 10 feet or more from the edge of the roof, rooftop equipment was calculated to result in a noise level of 37 dBA DNL at the nearest residences.

Emergency Generator

For hotels of this size, an emergency generator would typically be required in case of power outages. A 60 kW emergency generator is planned to be included with the project in case of power outages. While a specific model and noise level of the generator was not available as of this writing, unenclosed generators of this size typically generate noise levels of 86 dBA at 23 feet, 77 dBA at 23 feet if the generator is equipped with a weatherproof enclosure, or 73 to 74 dBA at 23 feet if the generator is equipped with a sound-attenuating enclosure. During emergency situations, the running of generators would be exempt from City noise restrictions; however, generators are typically tested during the daytime for a period of up to two hours every month. A worst-case placement of a rooftop generator with a weather enclosure set 10 feet back from the edge of the roof was added to the SoundPLAN model and run concurrently with HVAC equipment. With HVAC operations and a two-hour test of the generator, rooftop equipment was calculated to result in a noise level of 49 dBA DNL at the nearest residences.

Under these assumptions, it is not expected that typical mechanical equipment would result in the City's threshold of 55 dBA DNL being exceeded at residences in the site vicinity.

As exact mechanical equipment plans are not currently known, the calculated mechanical equipment noise scenario may be exceeded depending on selection, number, and placement of equipment. As such, during final design of the mechanical systems, the noise levels from the various pieces of equipment should be examined to ensure noise levels would be below 55 dBA DNL to avoid disturbance at the adjacent residences. In accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required, as a Condition of Project Approval, to implement the following measure.

Standard Permit Conditions

- Prior to the issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from the nearest residences), where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director

of Planning or Director's designee for review and approval prior to the issuance of any building permits.

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

Project-Generated Traffic

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

To determine the effect of project-generated traffic on the nearby residences, the peak hour project trips were added to existing traffic volumes (based on 2018 traffic data) to calculate the existing plus project traffic. The existing plus project traffic volumes were then compared to the existing traffic volumes. The project would increase the ambient noise level to two dBA DNL or less along the roadways in the project vicinity and, as a result, implementation of the proposed project would not result in a permanent noise increase of three dBA DNL or more.

Construction Noise

Construction of the project is anticipated to occur over a period of 19 months. Construction activities generate considerable amounts of noise, especially during earthmoving activities when heavy equipment is used. Ambient noise levels at sensitive receptors near the site are expected to be similar to that of the site itself, 68 to 69 dBA DNL. Peak-hour noise levels would be about one dBA less at 67 to 68 dBA Leq (1-hr). Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor.

As seen in Table 3.6-2, project construction would result in noise levels exceeding the ambient noise by five dBA Leq or more throughout most phases of construction at most nearby receptors. Since project construction would last for a period longer than one year and the project site is within 500 feet of existing residences and within 200 feet of existing commercial uses, Policy EC-1.7 of the City's General Plan would consider this construction noise impact to be significant.

Table 3.6-2: Estimated Construction Noise Levels at Nearby Land Uses					
Phase of Construction	**Total Work Days**	**Calculated Hourly Average Noise Levels, L_{eq} (dBA)**			
		Residences to Northeast (90 ft)	**Residences to Northwest, Commercial to East (100 ft)**	**Commercial to Southwest (140 ft)**	**Residential to Northwest, Commercial to Southeast (180 feet)**
Demolition	39	83	82	79	77
Site Preparation	18	80	79	76	74
Grading/Excavation	25	81	80	77	74
Trenching/Foundation	102	76	75	72	73
Building Exterior	132	79	78	75	73
Building Interior	94	70	69	67	67
Paving	63	83	82	79	78
Notes: The construction noise levels were calculated using the Federal Highway Administration (FHWA) software – Roadway Construction Noise Model (RCNM). RCNM-calculated Lmax noise levels represent the maximum noise level of the loudest individual piece of equipment per phase and therefore may occasionally be below the calculated hourly average noise level.					

Impact NOI-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses.

Mitigation Measures:

Consistent with the Downtown Strategy 2040 FEIR and the Municipal Code, the proposed project would be required to implement the following measures (as modified to reflect site-specific conditions) during all phases of project construction.

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The logistics plan shall be prepared by a qualified acoustics professional. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to respond to noise complaints from neighbors. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading or demolition permits.

As part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a

development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- 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 sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Prohibit all unnecessary idling of internal combustion engines.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- A "noise disturbance coordinator" shall be designated to respond to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

The project would be required to implement the identified mitigation measures during all phases of construction and would have a less than significant construction noise impact.

The proposed project would implement Standard Permit Conditions to reduce potential impacts resulting from the operation of mechanical equipment on-site. The proposed project would increase the ambient noise level through traffic operations by less than two dBA; as a result, implementation of the proposed project would not result in a permanent noise increase of three dBA DNL or more. Additionally, the proposed project would implement mitigation measure MM NOI-1.1 to reduce the impacts of construction noise on sensitive receptors surrounding the project site. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

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

General Policy EC-2.3 of the 2040 General Plan establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. Pile driving is not proposed as part of the project. Typical vibration levels that could be expected from construction equipment is summarized below in Table 3.6-3.

Table 3.6-3: Vibration Levels for Construction Equipment at Various Distances

Equipment		PPV at 10 ft. (in/sec)	PPV at 25 ft. (in/sec)	PPV at 70 ft. (in/sec)	PPV at 100 ft. (in/sec)
Clam shovel drop		**0.553**	0.202	0.065	0.044
Hydromill (slurry wall)	in soil	0.022	0.008	0.003	0.002
	in rock	0.047	0.017	0.005	0.004
Vibratory Roller		**0.575**	0.210	0.068	0.046
Hoe Ram		0.244	0.089	0.029	0.019
Large bulldozer		0.244	0.089	0.029	0.019
Caisson drilling		0.244	0.089	0.029	0.019
Loaded trucks		0.208	0.076	0.024	0.017
Jackhammer		0.096	0.035	0.011	0.008
Small bulldozer		0.008	0.003	0.001	0.001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006 as modified by Illingworth & Rodkin, Inc., June 2020.

According to the City of San José Historic Resources Inventory, historic buildings within 500 feet of the site include 530 West San Carlos Street, located approximately 230 feet from the site, and 575 West San Carlos Street, located approximately 300 feet from the site. These historic buildings would be classified as Category 5 structures and the 0.25 in/sec PPV Caltrans threshold criteria would apply. The remaining buildings surrounding the site would fall under Category 7 for modern residential and commercial structures and the 0.5 in/sec PPV threshold criteria would apply. There are no historic buildings located within 25 feet.

Groundborne vibration levels from project construction would be anticipated to exceed 0.5 in/sec PPV when construction is located within 12 feet of the structures adjacent to the project site to the northwest, northeast, and east. Vibration levels may still be perceptible in areas further from the site during periods of heavy construction but would not cause structural damage.

Impact NOI-2: Construction activity associated with the proposed project may impact adjacent structures within 12 feet for the project site.

Mitigation Measures: The Downtown Strategy 2040 FEIR recognized that construction vibration for future projects in downtown could exceed these thresholds and included mandatory measures to be implemented by future projects to reduce vibration impacts. In accordance with the Downtown

Strategy 2040 FEIR, the proposed project would implement the following measures (as modified to reflect site-specific conditions) during all phases of construction on-site.

MM NOI-2.1: The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

- Limit the use of vibratory rollers and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site.
- 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.
- Select demolition methods not involving impact tools
- Avoid dropping heavy objects or materials near vibration sensitive locations.
- 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.) shall be submitted 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 required for continuous vibration monitoring.
- A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
    - Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the site. A vibration survey (generally described below) would need to be performed.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the site. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure.

The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.

- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
- The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will 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 will 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.

With the implementation of MM NOI-2.1, impacts from groundborne vibration to the surrounding commercial and residential structures would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

According to the City's Mineta San Jose International Airport Master Plan EIR (certified in April 2020), the project site is located just outside the projected 60 dBA CNEL aircraft noise impact area. According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircraft. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. Assuming standard construction materials for aircraft noise of about 59 dBA DNL, the future interior noise levels resulting from aircraft would be at or below 45 dBA DNL. The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and compliance with the local airport land use plans would reduce program-level aircraft noise impacts to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.6.2.1 *Cumulative Impacts*

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

Construction

The project's noise and vibration impacts are localized; therefore, the geographic study area is the project site and surrounding area (within 1,000 feet of the project site).

3.6.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on a project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project.

In light of this ruling, the effect of existing ambient noise or groundborne vibration on future users or residents of the project would not be considered an impact under CEQA. General Plan Polices EC-1.1 through 1.7, however, require that existing ambient noise levels be analyzed for new residences, office buildings, business commercial, or professional offices and that noise attenuation be incorporated into the project in order to bring interior and exterior noise levels down to acceptable levels. The analysis of noise exposure for future site users discloses information on the project's compliance with General Plan polices.

- For the proposed hotel land use, the City's "normally acceptable" exterior noise level standard is 60 dBA DNL or less and the "conditionally acceptable" exterior noise level standard is 75 dBA DNL or less.
- The California Building Code requires interior noise levels in hotel rooms attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room.
- The Cal Green Code standards specify an interior noise environment attributable to exterior sources not to exceed an hourly equivalent noise level (Leq (1-hr)) of 50 dBA in occupied areas of non-residential uses during any hour of operation

Future Exterior Noise Environment

The exterior noise threshold established in the City's General Plan for hotel uses is 60 dBA DNL at usable outdoor activity areas. According to site plans dated April 24, 2020, there would be two outdoor spaces provided for the site, including a fourth-floor courtyard and an eighth-floor rooftop terrace.

The fourth-floor courtyard would be located in the center of the hotel and surrounded on all sides by the hotel structure. Therefore, it would not be directly exposed to substantial sources of exterior noise. Noise levels at the courtyard would be approximately 59 dBA DNL due to aircraft activity and would meet the City's "normally acceptable" limit of 60 dBA DNL. The eighth-floor terrace would be located at the building's southwestern corner and exposed to traffic noise. Based on the results of the model under future (2040) traffic conditions, noise levels at the terrace would reach 66 dBA

DNL, including aircraft noise. The "normally acceptable" limit for exterior noise at outdoor use spaces would be exceeded at the rooftop terrace with no mitigation in place. Project plans indicate a wall surrounding the terrace reaching approximately three feet in height. If the terrace wall is to be constructed without any gaps or cracks and have a minimum surface weight of three pounds per square foot then it would provide additional noise reduction of approximately two dBA DNL, bringing the calculated noise level to 64 dBA DNL from a combination of aircraft and traffic noise. As the site is exposed to an aircraft generated noise level of approximately 59 dBA DNL, the traffic generated noise level would need to be below 55 dBA DNL for the combined exterior noise level to be 60 dBA DNL. This makes reducing noise levels at the rooftop terrace below the "normally acceptable" limit infeasible without construction of significant walls around the perimeter of the space. The noise level at the terrace would be below the City's "conditionally acceptable" limit for exterior noise outdoor use spaces at hotels and hotel occupants would have access to the fourth-floor terrace, which would meet the City's "normally acceptable" noise limit.

Future Interior Noise Environment

The CBC requires that interior noise levels attributable to exterior environmental noise sources not exceed 45 dBA DNL in any habitable room. The CalGreen Code requires that interior noise levels attributable to exterior sources not exceed 50 dBA Leq (1-hr) in occupied areas of non-residential uses during any hour of occupation. Future 2040 building façade noise exposures were calculated using the SoundPLAN model. Table 4 below lists noise levels at building façades at different elevations. As seen in Table 3.6-4, noise exposures above the second-floor increase by two to four dBA DNL due to increased exposure to elevated highways such as SR 87 and I-280.

Table 3.6-4: Future Noise Exposure at Building Façades

Floor	Future Noise Exposure at Façades (dBA DNL)			
	Northeast	Northwest	Southeast	Southwest
First	61	61	70	63
Second	61	61	70	65
Third	61	61	70	65
Fourth	61	61	70	65
Fifth	62	61	69	65
Sixth	63	61	69	65
Seventh	64	61	69	65
Eighth	65	61	70	65

Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 70 dBA DNL, the inclusion of adequate forced-air mechanical ventilation can reduce interior noise levels to acceptable levels by allowing occupants the option of closing the windows to control noise.

The first three floors of the proposed building would consist primarily of the on-site parking garage. The southeast portion of the first and second floors of the building facing San Carlos Street would include the main entrance, lobby, a community dining area, and employee office space. At the third

floor along this same portion of the building would be a fitness center, and staff break room. In these spaces, the CalGreen Code limit of 50 dBA Leq (1-hr) would apply during any hours of occupation. Preliminary calculations indicate that for the third-floor fitness center and staff break room, standard construction with windows closed is anticipated to provide the necessary noise reduction to keep interior noise levels below 50 dBA Leq (1-hr) during hours of occupation. The inclusion of force-air ventilation would be needed to allow occupants the option of keeping windows closed.

Conditions of Approval

Consistent with the requirements for future development under the Downtown Strategy FEIR and California Building Code, the following measures shall be implemented to reduce interior noise levels to 45 dBA DNL for the hotel rooms or 50 dBA DNL or lower for the non-residential portions:

- To reduce noise to below 65 dBA DNL, the wall along the perimeter of the eighth-floor terrace shall be constructed to provide adequate noise reduction. The wall shall reach a minimum height of three feet and be constructed without any gaps or cracks along the face or at the base and have a minimum surface weight of three pounds per square foot (such as 1-inch-thick wood, ½-inch laminated glass, masonry block, concrete, or metal one-inch).
- Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all noise sensitive interior spaces so that windows could be kept closed at the occupant's discretion to control noise.
- A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the design phase of the project. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce interior noise levels in guest rooms to 45 dBA DNL or lower, and in other occupied rooms such as the fitness center to below 50 dBA Leq (1-hr). Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

SECTION 4.0 GROWTH-INDUCING IMPACTS

The project proposes to construct a 175-room hotel on a 0.6-acre infill site within an urbanized area of Downtown San José. The project site is in a developed area fully served by public utilities. There are no undeveloped areas adjacent or in the immediate vicinity of the project site. The project would not remove any obstacles that would help facilitate growth that could significantly affect the physical environment.

Indirect population growth associated with the proposed project could occur because of the jobs generated by construction of the proposed project. In addition, the increase in hotel rooms citywide would generate more employees. However, the jobs created during construction and operation of the project would be consistent with the planned growth in the Downtown Strategy 2040. The project does not include residences; therefore, it would not directly result in an increase in the residential population, but indirectly, the project could bring some new residents into the downtown and surrounding areas.

The project would occur on an infill site in an urbanized area of the City. The project would not require the expansion of utilities or roads. Because of the project's location in the downtown and proximity to various modes of transit, any growth that would occur because of the project, would be a beneficial impact.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

The proposed project would redevelop a currently developed site. The project would not result in significant and irreversible environmental changes to the project site.

Future development on-site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants would use non-renewable fuels to heat the buildings. The proposed project would also result in the increased consumption of water and the loss of pervious surfaces.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance. In addition, the project would be constructed consistent with City Council Policy 6-29 and the Regional Water Quality Control Board Municipal Regional Stormwater National Pollution Discharge Elimination System Permit to avoid impacts to waterways from any increase in impervious surfaces. Lastly, the site provides a hotel in proximity to existing transportation networks. The proposed project would, therefore, facilitate a more efficient use of resources over the lifetime of the project.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

- Cultural Resources: Implementation of the proposed project would result in the demolition of the historic buildings at 497-499 W. San Carlos Street, which include the mixed-use building and the tankhouse and garage.

SECTION 7.0 ALTERNATIVES

7.1 OVERVIEW

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

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

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

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

7.2 SIGNIFICANT IMPACTS FROM THE PROJECT

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

Significant Impacts that would be mitigated to Less than Significant Levels:

- Air Quality: Construction activities associated with the proposed project would result in nearby sensitive receptors being exposed to toxic air contaminant emissions in excess of

BAAQMD thresholds (cancer risk and $PM_{2.5}$ concentrations). **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

- Biological Resources: Construction activities associated with the proposed project, such as tree trimming, could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**.
- Greenhouse Gas Emissions: Operation of the project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**
- Hazardous Materials: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**
- Noise: Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
- Noise: Construction activity associated with the proposed project may impact adjacent structures within 12 feet for the proposed project. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Significant and Unavoidable Impacts:

- Cultural Resources: Implementation of the proposed project would result in the demolition of the historic buildings at 497-499 W. San Carlos Street, which include the mixed-use building and the tankhouse and garage. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**

7.3 PROJECT OBJECTIVES

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

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan, Downtown Strategy 2040 and Diridon Station Area Plan by locating commercial (and hotel) development on a downtown site within a designated Urban Village.
2. Create a modern hotel project to compliment office development underway in downtown San José, and meet the significant anticipated future demand from adjacent tech campus development.
3. Support San Jose's Environmental Stewardship goals by providing a LEED Silver-equivalent building (and San José Reach Code compliant) with sustainable energy and water usage, natural ventilation, EV parking, and reduced carbon footprint. This also includes addressing soils conditions across the entire site, in accordance with local regulations.

4. Add economic development growth in a transit-centric location served by various modes of public transportation such as bikeways, VTA light rail and buses, and planned BART extension, and generate ongoing "Transient Occupancy Tax" revenue.
5. Construct and upgrade public facilities, such as sidewalks and infrastructure to be consistent with City policies and planning documents.

7.4 ALTERNATIVES

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project – No Development
- No Project – Redevelopment with No Rezoning
- Preservation Alternative 1 – Relocation of all Historic Resources Off-Site
- Preservation Alternative 2 – Relocation of Tankhouse Off-Site
- Preservation Alternative 3 – Relocation of Mixed-Use Building Off-Site
- Preservation Alternative 4 – Preservation of All Historic Structures On-site
- Preservation Alternative 5 – Preservation of Tankhouse On-site
- Preservation Alternative 6 – Preservation of Mixed-Use Building On-site

7.4.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The Guidelines advise 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)].

7.4.2 Project Alternatives

7.4.2.1 *Alternatives Considered and Rejected*

Location Alternative

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[16] The project proposes to construct 175-room, eight-story building (approximately 177,084 square feet) with three levels of parking garage and courtyard space on an approximately 0.6-acre site in the downtown area.

Any project of this size and intensity within the downtown area could be expected to have similar operational impacts, as well as impacts associated with project construction. In addition, the DSAP and downtown have historic structures throughout. A suitable alternative location would not necessarily preclude impacts to historic structures on-site or adjacent. Lastly, a location alternative may not meet the objective of locating the site near the Diridon Station (approximately 0.45 mile)

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

from the northwest corner of the site. Therefore, since no suitable alternative site that could meet the basic objectives of the project would reduce all significant impacts, a feasible location alternative was not identified, and was not evaluated further.

Preservation Alternative 1 - Relocation of All Historic Structures Off-Site

The historic report identified the buildings at 497-499 W. San Carlos Street (the mixed-used building) and 280 Josefa Street (the tankhouse) as historic structures. Historic buildings can be relocated in many circumstances, depending on structural condition, building materials, location, and the availability of a receiver site. The historic report identified the mixed-use building (single-family house with an attached store) and the tankhouse as wood-frame structures which could potentially be relocated to another site. It would be preferable to relocate the tankhouse and corner building in a manner that maintains their existing spatial relationship to the roadway. Further, it would be preferential that the mixed-use building be relocated to a corner site on a primary roadway.

As proposed, this alternative would relocate both historic structures off-site and construct the new hotel as proposed by the project. The lots identified for relocation would need to be large enough to accommodate each structure. The structures could be relocated to the same lot or separate lots.

The tankhouse is an approximately 480 square foot building and the corner mixed-use building is approximately 1,872 square feet. Given the size of the tankhouse, the lot size requirement is not onerous and could allow for the structure to be relocated to a site with other existing buildings. To determine the relocation feasibility, an assessment of structural conditions of the tankhouse and mixed-use buildings were commissioned by the applicant (see Appendix I). According to the reports, the structural members and sheathing of the tankhouse have considerable white mold, termite damage, and rot. The fascia boards at the top of the tankhouse are rotten or do not exist, the floor framing is damaged, and the roof membrane is long past its useful life. The overall condition of the tankhouse exhibits significant damage and continuing deterioration as there is missing rafter tail, broken rafter, fascia and eave, bowed roof framing and wall top plates and peeling siding with large gaps and holes. The structural report concludes that these unstable characteristics of the structure will require major structural replacement if occupancy of the structure is desired, which could result in loss of historic integrity of the tankhouse.

The corner mixed-use building shows previous prolonged exposure to water at several locations in the basement. Moreover, the absence of any anchor bolts and tiedowns at the basement and the unclear lateral resisting system at the front would significantly limit the building's resistance to lateral forces. The condition of the corner mixed-use building shows some signs of distress, but the structural report concluded that the building can be relocated to a new location. This may be difficult, however, given the limited number of undeveloped lots in downtown San José. There is one vacant corner parcel on West San Carlos Street within the Downtown Strategy plan area at the northwest corner of Delmas Avenue and West San Carlos Street. This site, however, has an existing entitlement for a new five-story residential development project and is considered unavailable.[17] Alternatively, there are vacant parcels at the southeast corner of the Gifford Avenue/Park Avenue intersection (460 Park Avenue), the southeast corner of the Sonoma Street/Park Avenue intersection, and the southwest corner of the Delmas Avenue/Park Avenue intersection. The property at 460 Park Avenue

[17] City of San José Website. https://sjpermits.org/permits/ Accessed November 10, 2020.

is City owned and was not considered for relocation. The parcels along Delmas Avenue also have existing entitlement for a new four- to five-story residential development project and the parcel on Sonoma Street has an application on file for a new office development.[18] Therefore, these parcels are also considered unavailable. The final vacant corner lot in the project area is at the southeast corner of Auzerais Avenue and Bird Avenue (404 Bird Avenue). The site would not meet the general parameters of relocation because it would require a change in orientation to the street and Auzerais Avenue is not a primary roadway. In addition, the site does have a pending application on file for a new five-story hotel and is considered unavailable.[19] Relocation within the downtown core is possible given there are parking lots available for redevelopment. The downtown core is, however, a different setting than the area west of Highway 87 and most all parking lots have pending or approved development proposals.

The applicant contacted the Parks and Recreation Department and History San José for assistance in identifying receiver sites for these historic structures. The correspondence from the applicant is attached in Appendix J. The applicant has not been able to find a viable receiver site for either of the structures within the Downtown Strategy plan area boundary. For these reasons, this alternative was not considered further.

Preservation Alternative 2 - Relocation of Tankhouse

The historic report identified the building at 280 Josefa Street (the tankhouse) as a historic structure. The historic report identified the tankhouse as a small wood-frame structure which could potentially be relocated to another site. The footprint of the tank house is approximately 480 square feet.

As proposed, this alternative would relocate the tankhouse to an off-site location and demolish all other buildings on-site to allow for development of the project as proposed. This would result in demolition of the historic mixed-use structure on-site.

Relocation would require a lot large enough to accommodate the structure. Given the size, the lot size requirement is not onerous and could allow for the structure to be relocated to a site with other existing buildings. To relocate the tank house the minimum set back is 10 feet from the property line to maintain a perimeter clearance for fire safety.[20]

As discussed in Preservation Alternative 1, an assessment of structural condition of the tankhouse was commissioned by the applicant (see Appendix I). According to the report, the structural members and sheathing of the tankhouse have considerable white mold, termite damage, and rot. The fascia boards at the top of the tankhouse are rotten or do not exist, the floor framing is damaged, and the roof membrane is long past its useful life. In all, the overall condition of the tankhouse is poor with significant signs of distress. The structural report concludes that these unstable characteristics of the structure will require major structural replacement if occupancy of the structure is desired, which would result in loss of historic integrity of the tankhouse.

[18] City of San José Website. https://sjpermits.org/permits/ Accessed November 10, 2020.
[19] City of San José Website. https://sjpermits.org/permits/ Accessed November 10, 2020.
[20] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.

The interior of the tank house is approximately 16 x 30 feet and the height at the tallest point of the building is approximately 14 feet.[21] Adaptive reuse of the tankhouse in a new location could be a café, concession stand, parking kiosk, small gift shop, restrooms or storage shed, but reuse options may be limited due to the design of the structure which is relatively small with limited natural light within the building. The receiver site should have a comparable setting to its original historic setting and on a comparable street. Meaning that the tankhouse should be relocated in a manner that maintains its existing spatial relationship to the street. Once the structure is relocated intact, the structure would need to be rehabilitated to the Secretary of the Interior Standards to ensure compatibility of design. As discussed in Preservation Alternative 1, no viable receiver site was identified for the tankhouse. The applicant also has not been able to find a viable receiver site for the tankhouse within the downtown core boundary. For these reasons, this alternative was not considered further.

Preservation Alternative 3 - Relocation of Mixed-Use Building

The historic report identified the building at 497-499 W. San Carlos Street (the mixed-used building) as a historic structure. The historic report identified the mixed-use building (single-family house with an attached store) as a wood-frame structure which could potentially be relocated to another site.

As proposed, this alternative would relocate the mixed-use building to an off-site location and demolish all other buildings on-site to allow for development of the project as proposed. This would result in demolition of the historic tankhouse structure on-site.

The footprint of the mixed-use building is approximately 1,872 square feet. Relocation would require a lot large enough to accommodate the structure. To relocate the corner building, the minimum set back is 10 feet from the property line to maintain a perimeter clearance for fire safety.[22]

As discussed in Preservation Alternative 1, an assessment of structural condition of the mixed-use building was carried out by the applicant (see Appendix I). According to the report, the corner mixed-use building shows previous prolonged exposure to water at several locations in the basement. Moreover, the absence of any anchor bolts and tiedowns at the basement and the unclear lateral resisting system at the front will significantly limit the building resistance to lateral forces. Overall, the building shows signs of water exposure and deterioration. The condition of the corner mixed-use building shows some signs of distress, but the building can be relocated to a new location.

The interior of the mixed-use building is approximately 52 feet × 36 feet, and the height at the tallest point of the building is approximately 22 feet.[23] The historic structure could be converted to housing, commercial/office, or mixed-use space. The receiver site should have a comparable setting to its original historic setting and on a comparable street. Meaning that the mixed-use building should be relocated to a corner site and situated in a manner that maintains its existing spatial relationship to the street. Once the structure is relocated intact, the structure would need to be rehabilitated to the Secretary of the Interior Standards to ensure compatibility of design. As discussed in Preservation Alternative 1, no viable receiver site was identified for the mixed-use structure. The applicant also

[21] Tom Holt. Development Manager, Urban Catalyst. *Personal communication.* November 9, 2020.
[22] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.
[23] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.

has not been able to find a viable receiver site for the mixed-use building within the downtown core boundary. For these reasons, this alternative was not considered further.

7.4.2.2 *No-Project – No Development Alternative*

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

The No Project – No Development Alternative would retain the existing land uses on-site as is. If the project site were to remain as is, the significant impacts of the project resulting during construction of the proposed project would not occur, however, this alternative would not meet any of the project objectives. The City would lose the opportunity to redevelop an underutilized site downtown and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density hotel development on a downtown site near transit.

It is possible that in the future an alternative development proposal may be presented for the project site. Based on the zoning district for the project site, *LI- Light Industrial*, permitted uses include variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Examples of typical uses include warehousing, wholesaling, and light manufacturing. Any future proposals for the site would require review and approval by the City of San José.

7.4.2.3 *No Project - Redevelopment with No Rezoning Alternative*

The project site is currently designated as *Downtown* under the City's General Plan and is zoned *LI – Light Industrial*. The site is located within the southern zone of the DSAP in the Park/San Carlos subarea. The proposed hotel is an allowed use under DSAP and the General Plan designation.

The proposed project is consistent with the General Plan land use but proposes a confirming rezoning from the *LI Light Industrial* to the *DC Downtown Commercial Zoning District* that would conform to the Downtown Primary Commercial zoning standards. The *Downtown* General Plan designation includes office, retail, service, residential, and entertainment uses in the downtown area. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Under this designation, projects can have a maximum FAR of 15.0 and up to 350 dwelling units per acre. The *Light Industrial* zoning district is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Examples of typical uses include warehousing, wholesaling, and light manufacturing. Given the site's *Downtown* land use designation, its location within the DSAP, and the objectives of the City's General Plan, any alternative project proposed on this site would likely be a transit supportive development with a FAR of up to 15.0.

The site is developed with two single-story commercial buildings, a tank house, a duplex, a mixed-use building and one single-family residence. Assuming that any proposal would try to maximize development on-site (within the parameters of the DSAP), such an alternative would have an FAR of up to 15. Given the maximum allowable development, it is reasonable to assume that construction air quality and noise impacts would be comparable or greater compared to the proposed project because

the length of construction and amount of grading would likely be similar. Other identified impacts to biological resources, loss of historic structures, and soil contamination impacts would remain the same as the proposed project because this alternative assumes full demolition of existing structures, removal of all landscaping trees on-site, and grading of the site.

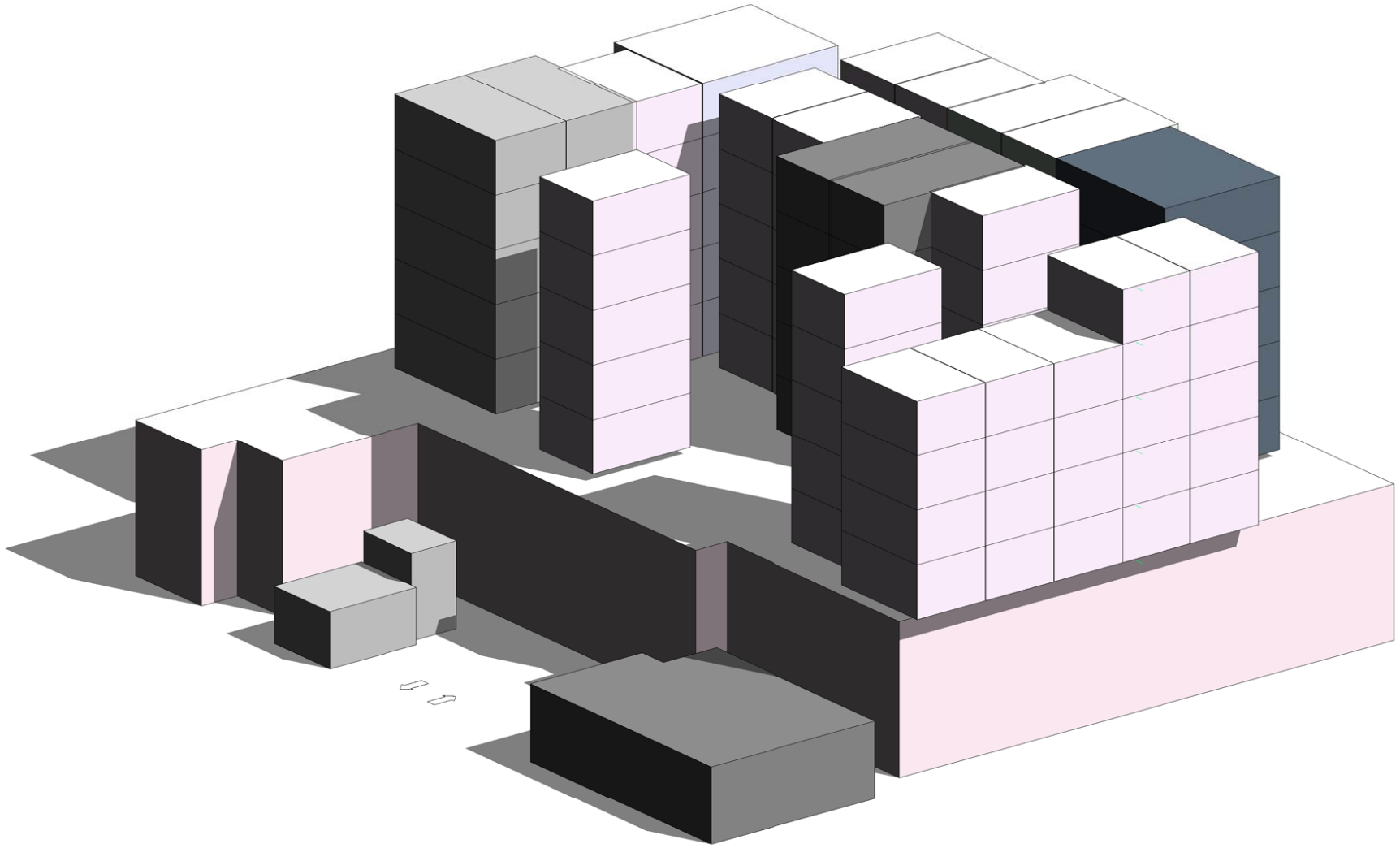
7.4.2.4 *Preservation Alternative 4 - Preservation of All Historic Structures On-site*

As noted in *Section 3.3*, the 20th century mixed-use property with a single-family residence, a corner store, and a combination garage and tankhouse (a rare remaining building type), constructed during the period of horticultural expansion (1870-1918) are eligible for consideration as Candidate San José City Landmarks under Criteria 1, 4 and 6. Under this alternative, both historic structures would be retained on-site, all other structures on-site would be demolished, and a new hotel would be constructed on the remaining site area. The hotel would be the same height as the proposed project, but the total square footage and number of rooms would be reduced because the available space for new construction would be reduced. Refer to Figure 7.4-1 for a rendering of Preservation Alternative 4.

The tankhouse has a footprint of less than 500 square feet and the mixed-use building has a footprint of approximately 1,872 square feet. Given the area available for new construction under this alternative, it is estimated that the total new development square footage would be approximately 130,654 square feet, which is approximately 46,430 square feet less than the proposed project. This equates to a loss of 73 hotel rooms and 43 parking spaces.[24] It would also alter the site access as the only site driveway proposed for this project is in the location of the tankhouse. This alternative would result in moving the driveway between the existing corner store and tankhouse or to San Carlos Street. The distance between the intersection and the driveway on Josefa Street would be approximately 83 feet which is inconsistent with the City's distance standard for safety (150 feet) that would need to be maintained from the intersection. The driveway could be located on San Carlos Street, but the street frontage of the project site on San Carlos Street is approximately 160 feet. With the City's driveway width requirement of 26 feet, there would not be sufficient frontage to maintain 150 feet of site distance from the intersection. Under Preservation Alternative 4, the design of the project would not be the most efficient use of space as seen in Figure 7.4-1. Moreover, by retaining the corner building, the hotel would lose a corner frontage in downtown area.

Under Preservation Alternative 4, it is reasonable to assume that the construction air quality and noise impacts would be reduced compared to the proposed project as it would be a smaller project and preservation of both the existing historic structures would result in less demolition on the site. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project, but would have the same impact on nesting birds on or in the vicinity of the site. The significant unavoidable impacts to historic resources would be avoided under Preservation Alternative 4. Other than that, this alternative would be required to implement all other mitigation measures (MM AIR-1.1and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. As a result, the impacts to noise, air quality, hazardous waste and biological resources would be reduced to a less than significant level.

[24] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.



Source: Studio Current, October 29, 2020.

PRESERVATION ALTERNATIVE 4 RENDERING

FIGURE 7.4-1

Preservation Alternative 4 would meet almost all the project objectives except objective 3 as if the historic buildings remain on-site in their current location, it would likely not allow for soils remediation of the whole site. The alternative would avoid the significant and unavoidable historic impacts, however, the historic structures that would be preserved on-site would be required to be maintained and adaptively reused. The tankhouse could be adaptively reused as a café, concession stand, parking kiosk, small gift shop, restrooms or storage shed, but reuse options may be limited due to the design of the structure which is relatively small with limited natural light within the building. The mixed-use corner building with its large expanse of windows could be converted to housing, commercial/office, or mixed-use space. In addition, any redesign of the project to incorporate these historic buildings would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design.

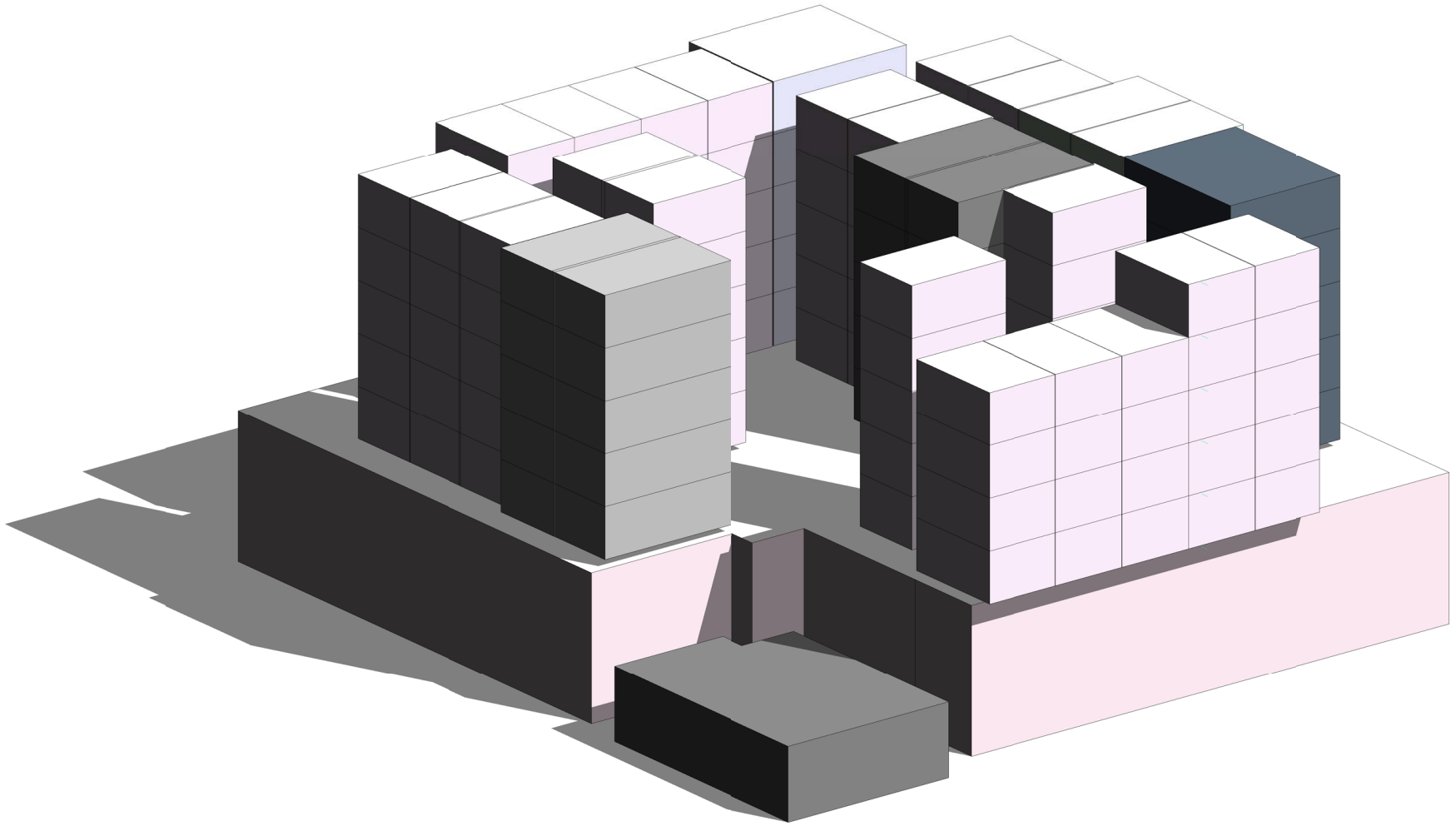
7.4.2.5 *Preservation Alternative 5 - Preservation of Tankhouse On-Site*

Preservation Alternative 5 would retain only the tankhouse and the attached garage at 280 Josefa Street. This alternative would open up more of the site for new construction as the building at 280 Josefa Street is the smaller of the two structures (less than 500 square foot footprint). It could be adaptively reused as a café, concession stand, parking kiosk, small gift shop, restrooms or storage shed, but reuse options may be limited due to the design of the structure which is relatively small with limited natural light within the building.

Preservation of the tankhouse would result in the loss of approximately 35,438 square feet of new development. This equates to a loss of 40 hotel rooms and 65 parking spaces.[25] It would also alter the site access as the only site driveway is proposed in the location of the tankhouse structure (see Figure 7.4-2). Just as with Preservation Alternative 4, moving the driveway to another location on Josefa Street or West San Carlos Street would conflict with the City's site distance standards for driveway safety. Alternatively, the tankhouse could be relocated within the project to better utilize the available land area and allow the proposed driveway location to be retained. The total loss of square footage, hotel rooms, and parking spaces would be similar whether the tankhouse is retained in its original location or moved elsewhere on-site.

While relocation of the tankhouse to another location on the project site could generate additional noise/vibration and air quality impacts due to the need for heavy equipment, construction activities for the new building would be less than the proposed project. Therefore, the overall impact from construction noise/vibration and emissions would be comparable to the proposed project. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project but would have the same impact on nesting birds on or in the vicinity of the site. Under this alternative, one of the existing structures would be retained (tankhouse) and would remain eligible for listing as a Candidate City Landmark. However, the project would still result in a significant and unavoidable impact resulting from the demolition of the other historic resource (mixed-use building at 497-499 W. San Carlos Street). The alternative would still be required to implement all mitigation measures (MM AIR-1.1and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. As a result, the

[25] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.



Source: Studio Current, October 29, 2020.

PRESERVATION ALTERNATIVE 5 RENDERING | FIGURE 7.4-2

impacts to noise, air quality, hazardous waste and biological resources would be reduced to a less than significant level.

The tankhouse that would be preserved on-site would be required to be maintained and reused in an appropriate manner as a café, concession stand, parking kiosk, small gift shop, restrooms or storage shed. In addition, any redesign of the project to incorporate the tankhouse would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design.

Preservation Alternative 5 would meet almost all the project objectives except objective 3 as if one of the historic buildings remain on-site in their current location, it would likely not allow for soils remediation of the whole site. The alternative would reduce the project's impacts resulting from the demolition of the historic structure at 280 Josefa Street and construction and occupancy of a new hotel building.

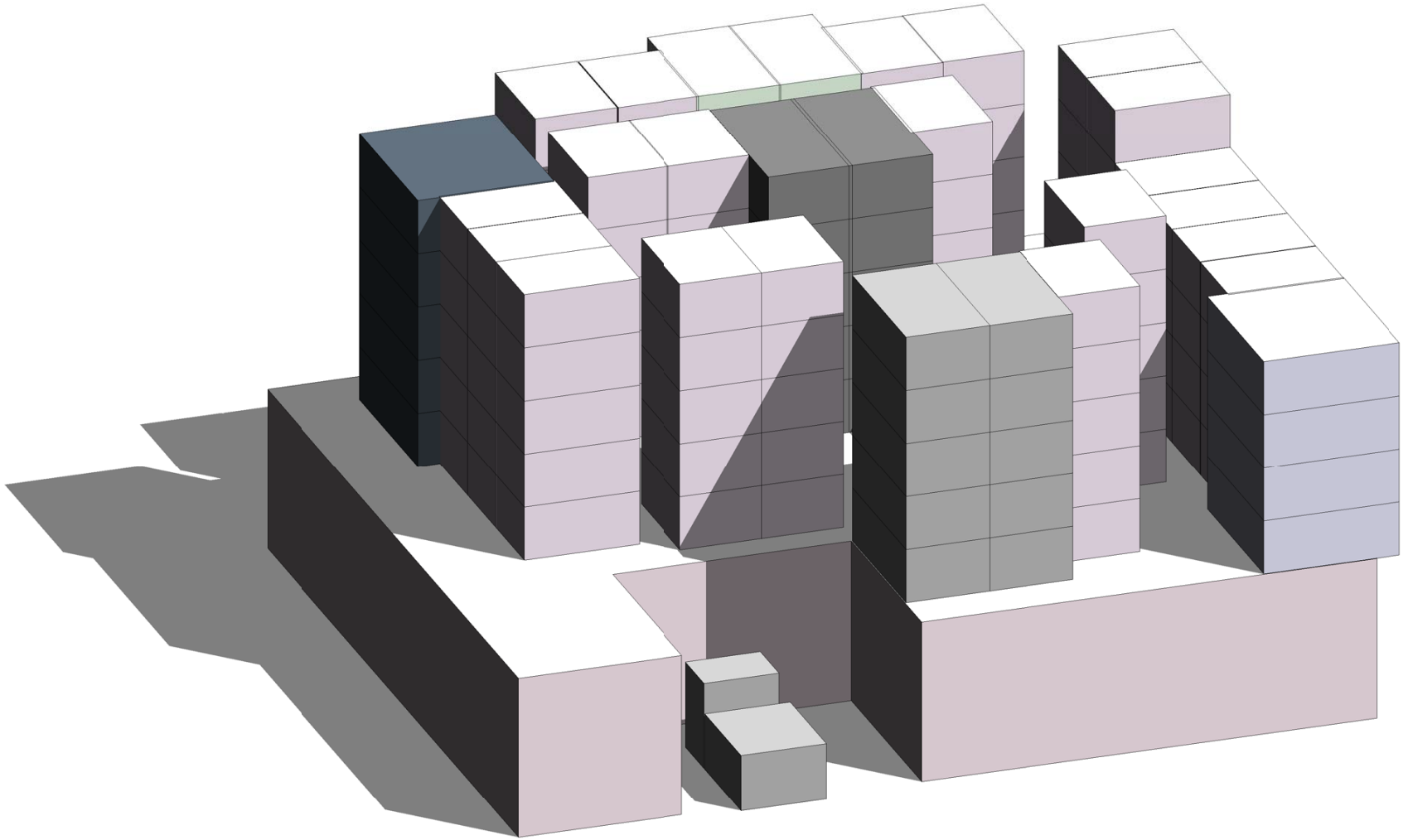
7.4.2.6 *Preservation Alternative 6 - Preservation of Mixed-Use Building On-Site*

Preservation Alternative 6 would retain the corner mixed-use building in its current location on-site. This building is more conducive to reuse than the tankhouse structure with its large expanse of windows and could be converted to housing, commercial/office, or mixed-use space. Refer to Figure 7.4-3 for a rendering of Preservation Alternative 6. Due to its size and specific orientation as a corner building, relocation of the building within the project site was not considered.

Given the area available for new construction under this alternative, it is estimated that preservation of the corner mixed-use building would reduce the total square footage of new development by approximately 30,154 square feet and reduce total hotel rooms by 38 hotel rooms and parking by 41 parking spaces. This would equate to approximately 146,930 square feet of total new development square footage on-site.[26] Preservation of the corner building would not alter the site access and operations compared to the proposed project. But by retaining the corner building, the hotel would lose a corner frontage in downtown area.

Under Alternative 6, it is reasonable to estimate that the construction air quality and noise impacts would be reduced compared to the proposed project due to the fact that preservation of one of the existing historic structures would result in less demolition on the site. The biological resource impacts would remain the same as the proposed project. The timeframe and magnitude of demolition and construction activities would be slightly less than the proposed project, but would have the same impact on nesting birds on or in the vicinity of the site. Under this alternative, the mixed-use corner building would be retained and would remain eligible for listing as a Candidate City Landmark. However, the project would still result in a significant and unavoidable historic impact resulting from the demolition of the tankhouse at 280 Josefa Street. The alternative would still be required to implement all mitigation measures (MM AIR-1.1and 1.2, BIO-1.1 and 1.2, HAZ-1.1 and 1.2, and MM NOI-1.1 and 2.1), standard measures, and conditions of approval identified for the proposed project. The impacts to noise, air quality, hazardous waste and biological resources would be less than significant. Final design of the project to incorporate the corner building would be required to

[26] Tom Holt. Development Manager, Urban Catalyst. *Personal communication*. November 9, 2020.



Source: Studio Current, October 29, 2020.

PRESERVATION ALTERNATIVE 6 RENDERING

FIGURE 7.4-3

comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design.

Preservation Alternative 6 would meet almost all the project objectives except for objective 3 as if one of the historic buildings remain on-site in their current location, it would likely not allow for soils remediation of the whole site. The alternative would reduce the project's impacts resulting from the demolition of the historic structure at 497-499 W. San Carlos Street and construction and occupancy of a new hotel building on the site.

7.4.3 Comparison of Environmental Impacts for Alternatives to the Project

A comparison of alternatives based upon whether they avoid or substantially lessen the significant environmental effects is shown in the table below.

Significant Project Impacts	Proposed Project	No Project-No Redevelopment Alternative	No Project - Redevelopment with No Rezoning Alternative	Preservation Alternatives		
				4	5	6
Construction activities associated with the proposed project would expose infants near the project site to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk and PM2.5 concentration).	LTSM	**NI**	LTSM	LTSM	LTSM	LTSM
Construction activities associated with the proposed project could result in the loss of fertile eggs, displacement of nesting raptors or other migratory birds, or nest abandonment.	LTSM	**NI**	LTSM	LTSM	LTSM	LTSM
Implementation of the proposed project would result in the demolition of two historic	SU	**NI**	SU	LTS	SU	SU

structures, the mixed-use building at 497-499 W. San Carlos Street and the tankhouse.						
Operation of the project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment	LTSM	**NI**	LTSM	LTS	LTS	LTS
Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.	LTSM	**NI**	LTSM	LTSM	LTSM	LTSM
Construction noise would exceed ambient levels by five dBA for a period of more than one year in the vicinity of residential and commercial uses.	LTSM	**NI**	LTS	LTSM	LTSM	LTSM
Construction activity associated with the proposed project may impact adjacent structures within 12 feet for the proposed project.	LTSM	**NI**	LTS	LTSM	LTSM	LTSM

7.4.4 Environmentally Superior Alternative

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

Based on the above discussion, the environmentally superior alternative is the No Project Alternative – No Development Alternative. As described above, the No Project – No development Alternative would retain the site in its current condition with two buildings that are eligible as Candidate San José City Landmarks. Retaining the status quo on the site would avoid all construction and operational impacts associated with the project, including the significant and unavoidable loss of the historic mixed-use building and tankhouse structure on the site. Therefore, the No Project – No Development Alternative is the environmentally superior alternative; however, it would not achieve the project objectives. Beyond the No Project – No Development Alternative, the Preservation Alternative 4 would be the environmentally superior alternative.

Preservation Alternative 4 would result in reduced noise and air quality impacts compared to the proposed project, and preservation of both the historic structures would reduce demolition on the site. Preservation Alternative 4 would meet almost all the project objectives except objective 3 because if the historic buildings remain on-site in their current location, it would likely not allow for soil remediation of the whole site. The alternative would avoid the significant and unavoidable historic impacts, however, the historic structures that would be preserved on-site would be required to be maintained and adaptively reused. In addition, any redesign of the project to incorporate these historic buildings would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design.

SECTION 8.0 REFERENCES

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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SECTION 10.0 ACRONYMS AND ABBREVIATIONS

µm	Micrometer(s)
2017 CAP	Bay Area 2017 Clean Air Plan
AASHTO	American Association of State Highway Transportation Officials
AB	Assembly Bill
AB 939	Assembly Bill 939
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos Containing Material
ADT	Average Daily Trips
AFY	acre-feet per year
AIA	Airport Influence Area
ALUC	Airport Land Use Commission
AP	Alquist-Priolo Earthquake Fault Zoning Act
AST	aboveground storage tank
ATCM	Air Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
bgs	below ground surface
BMP	Best Management Practices
Cal/OSHA	California Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
Cal Fire	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards Code
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act

CFCs	chlorofluorocarbons
CGS	California Geological Survey
CH_4	methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CO	carbon monoxide
CO_2e	CO_2 equivalents
CO_2e/SP	carbon dioxide equivalent per service population
CREC	Controlled Recognized Environmental Condition
CRHR	California Register of Historical Resources
CT-EMFAC2017	California Department of Transportation EMFAC2017 model
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
DPM	diesel particulate matter
DSOD	Division of Safety of Dams
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	floor area ratio
FAR Part 77	Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
FRAP	Fire and Resource Assessment Program
GHG	greenhouse gas emissions
GHGRS	Greenhouse Gas Reduction Strategy
gpd	Gallon(s) per day
GSF	Gross Square Feet
GWP	Global Warming Potential

HABS	Historic American Building Survey
HFCs	hydrofluorocarbons
HI	Hazard Index
HMP	Hydromodification Management Plan
HOV	High-Occupancy Vehicle
HVAC	Heating, Ventilation, and Air-Conditioning
I-280	Interstate 280
I-80	Interstate 80
in/sec	inch(es)/second
ITE	Institute of Transportation Engineers'
IWMP	Integrated Waste Management Plan
LBP	lead-based paint
LID	Low Impact Development
LOS	level of service
LRT	Light Rail Train
MBTA	Migratory Bird Treaty Act
mgd	million gallon(s) per day
MCL	Maximum Contaminant Level
MEI	Maximum Exposed Individual
MLD	Most Likely Descendants
mm/sec	millimeter(s) per second
$MMTCO_2e$	million metric ton(s) of CO_2e
MND	Mitigated Negative Declaration
mpg	mile(s) per gallon
mph	mile(s) per hour
MRP	Municipal Regional Stormwater NPDES Permit46F
MT	metric ton(s)
MTC	Metropolitan Transportation Commission
NAHC	Native American Heritage Commission
NCCP	Natural Community Conservation Plan
NFIP	National Flood Insurance Program
NESHAP	National Emission Standards for Hazardous Air Pollutants
NHPA	National Historic Preservation Act

NISL	Newby Island Sanitary Landfill
N_2O	nitrous oxide
NO_2	nitrogen dioxide
NO_x	nitrogen oxides
NOD	Notice of Determination
NOI	Notice of Intent
NOP	Notice of Preparation
NOT	Notice of Termination
NPDES	National Pollution Discharge Elimination System
NWIC	Northwest Information Center
NRHP	National Register of Historic Places
O_3	ground-level ozone
OITC	Outdoor-Indoor Transmission Class
OPR	Office of Planning and Research
PCE	tetrachloroethene
PDAs	Priority Development Areas
PFCs	perfluorocarbons
PG&E	Pacific Gas and Electric Company
PM	particulate matter
$PM_{2.5}$	fine particulate matter
PPV	peak particle velocity
RCNM	Roadway Construction Noise Model
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
RPS	Renewables Portfolio Standard
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCP	Site Cleanup Program
SCS	Sustainable Communities Strategy
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SEIR	Supplemental Environmental Impact Report
SF_6	sulfur hexafluoride

SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJUSD	San José Unified School District
SMARA	Surface Mining and Reclamation Act
SMP	Site Management Plan
SR	State Route
STC	Sound Transmission Class
SWRCB	State Water Resources Control Board
TACs	Toxic Air Contaminants
TCMs	Treatment Control Measures
TDM	Transportation Demand Management
TCRs	Tribal Cultural Resources
SCVHP	Santa Clara Valley Habitat Plan
SWPPP	Storm Water Pollution Prevention Plan
ULSD	Ultra-low Sulfur Diesel
U.S. 101	Highway 101
USFWS	United States Fish and Wildlife Service
UST	Underground Storage Tanks
UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VTA	Valley Transportation Authority
Williamson Act	California Land Conservation Act