Draft Supplemental Environmental Impact Report

The Mark Residential

SP20-021

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with
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SUMMARY

The site is currently developed with two apartment buildings and a single-family residence. The project proposes construction of a 23-story tower with up to 240 dwelling units. The following is a summary of the significant impacts and mitigation measures addressed within this SEIR. The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Project Description* and *Section 3.0 Environmental Setting, Impacts, and Mitigation*.

Significant Impacts	Mitigation Measures
Air Quality	
Impact AIR-1: Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**	**MM AIR-1.1:** Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards. • If Tier 4 equipment is not available, all construction all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 94 percent reduction in diesel particulate matter emissions. • Cranes and portable equipment (e.g., welders and air compressors) shall be electrified. Additionally, line power shall be provided to the site during the early phases of construction to minimize the use of

	diesel-powered stationary equipment, such as generators, air compressors, and welders.
Cumulative Air Quality	
Impact AIR(C)-1: The cancer risk and maximum annual $PM_{2.5}$ concentration would exceed BAAQMD's threshold for cumulative sources. **[Less Impact than Approved Project with Mitigation (Significant Unavoidable Cumulative Impact)]**	Same as Mitigation AIR-1.1.
Hazards and Hazardous Materials	
Impact HAZ-1: A portion of the site may have been occupied by a brewery cellar processing area and kiln and a potential oil heating tank may have been present at the adjacent property near the 475 South Fourth Street boundary. Construction activities associated with the proposed project could potentially expose construction workers and/or nearby residents to soil, soil vapor, and groundwater contamination. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**	**MM HAZ-1.1:** A Site Management Plan (SMP) shall be prepared by a qualified environmental professional prior to the issuance of a grading permit to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, soil vapor, and/or groundwater. At a minimum, the SMP shall include the following: • Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of Best Management Practices (BMPs) • Proper disposal procedures of contaminated materials • Monitoring, reporting, and regulatory oversight notifications • A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection • The health and safety plan will also outline proper soil and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction. The SMP shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the Environmental

	Compliance Officer in the City of San José's Environmental Services Department.
Noise	
Impact NOI-1: Existing noise-sensitive land uses would be exposed to construction noise levels in excess of the City's threshold for a period of more than one year. **[Same Impact as Approved Project (Less than Significant Impact)]**	**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator to the Director of Planning, Building and Code Enforcement or Director's Designee. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices: • In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities. • Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). • Construct temporary noise barriers, where feasible, around the perimeter of the construction site. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight

	between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps. • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. • Strictly prohibit unnecessary idling of internal combustion engines. • Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. • Use 'quiet' models of air compressors and other stationary noise sources where technology exists. • Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors closest to the site during all project construction. • If necessary, erect a temporary noise control blanket along building façades facing the construction sites. • Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. • Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy"

	construction activities to the adjacent land uses and nearby residences. • Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
Impact NOI-2: Project construction would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 50 feet of the project site. **[Same as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**	**MM NOI-2.1:** Prior to commencement of any construction activities, including any ground disturbing activities, a qualified historic architect shall undertake an existing visual conditions study of the nearby historic resources within 50 feet of the project site. The purpose of the study would be to establish the baseline conditions of the buildings prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be submitted, reviewed and approved by Director of Planning, Building and Code Enforcement or Director's Designee and the City of San José's Historic Preservation Officer or equivalent. **MM NOI-2.2:** Prior to commencement of any construction activities, including any ground disturbing activities, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect nearby historic resources (within 50 feet of the project site) from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).

	The HRRP shall be prepared by a qualified Historic Architect and reviewed and approved by the Historic Preservation Officer or equivalent of the City of San José Department of Planning, Building and Code Enforcement prior to demolition and Public Works clearance, including any ground-disturbing work. The project applicant shall ensure the construction contractor follows the HRRP while working near these historic resources. At a minimum, the plan shall include: • Guidelines for operation of construction equipment adjacent to historical resources; • Requirements for monitoring and documenting compliance with the plan; and • Education/training of construction workers about the significance of the historical resources around which they would be working. **MM NOI-2.3:** The Historic Architect shall establish a "Monitoring Team" comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. During the demolition and construction phases, the Monitoring Team shall make periodic site visits to monitor the condition of the property, including monitoring of any instruments such as crack gauges, if necessary, or reviewing vibration monitoring required by other construction monitoring processes required under the City's permit processes. In addition, the Monitoring Team shall prepare a site visit report documenting all site visits. The Monitoring Team shall submit the site visit reports and documents to the City's Historic Preservation Officer on a quarterly basis (no later than one week after each reporting period). The Director of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement may request any additional number of site visits at their discretion. If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during

	construction, a representative of the Monitoring Team shall inform the project applicant (or the applicant's designated representative responsible for construction activities), the Director of Planning, Building and Code Enforcement or the Director's designee, and the Historic Preservation Officer of the potential impacts immediately. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. In the event of damage to a nearby historic resource during construction, the project applicant shall ensure that repair work is performed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status. The Monitoring Report shall also include, but is not limited to, the following: • Summary of the demolition and construction progress; • Identification of substantial adverse impacts related to construction activities; • Problems and potential impacts to the historical resources and adjacent buildings during construction activities; • Recommendations to avoid any potential impacts; • Actions taken by the project applicant in response to the problem; • Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and • Inclusion of photographs to explain and illustrate progress. • In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the Director of Planning, Building and Code Enforcement or the Director's designee and the Historic

	Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any Certificate of Occupancy (temporary or final).
Cumulative Noise	
Impact NOI(C)-1: Considering the size, construction equipment to be used, location, and construction timeframe of both the proposed project and the South Fourth Street Mixed-Use project (i.e., assuming construction of both projects would overlap), the receptors within the immediate vicinity could be exposed to a significant cumulative construction noise impact. **[Less Than Significant Impact (Less Than Significant Cumulative Impact)]**	Same as Mitigation NOI-1.1.
Impact NOI(C)-2: Overlapping project schedules with the adjacent South Fourth Street Mixed-Use development could result in a cumulative vibration impact. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**	Same as Mitigation NOI-2.1 to NOI-2.3.

Summary of Alternatives to the Proposed Project

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

Location Alternative

It is reasonable to assume that there are other sites available within the downtown area that could be redeveloped to support the proposed residential development. As there are historic buildings throughout the downtown, it is unlikely that a new location would avoid impacts to historic buildings. All construction-related impacts would remain the same if sensitive receptors were located within 1,000 feet of the site. This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area that would avoid the construction impacts.

No-Project – No Development Alternative

The No Project – No Development Alternative would retain the existing apartment buildings and single-family residence as is. If the project site were to remain as is, the significant impacts of the project would not occur.

It is possible that in the future an alternative development proposal, such as another residential building or a mixed-use building, may be presented for the project site. Any future development proposals for the site would require review and approval by the City of San José.

Reduced Development Alternative

Under this alternative, one level of below-grade and two levels of above-grade parking are proposed. The remaining floors (floors three to six) would consist of 44 dwelling units, a reduction of 196 units when compared to the proposed project. With this reduction in height, it is reasonable that the project would be constructed in a shorter timeframe. In regard to impacts to historic resources, the reduced height would comply with more elements of the 2004 Historic Guidelines and 2019 Design Guidelines and Standards. In addition, consistent with the proposed project, the Reduced Development Alternative would not impact the integrity of the adjacent historic resources. All other impacts would be the same as the proposed project with all identified mitigation measures and Standard Permit Conditions.

Areas of Public Controversy

Areas of public concern include:

- Impacts to adjacent historic structures
- Building height and setbacks
- Parking

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) for the Mark Residential Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, 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. An SEIR is required for this project because project-specific information was not available at the time the Downtown Strategy 2040 FEIR was prepared. An Initial Study prepared for the proposed project (see Appendix A) identified significant impacts to cultural resources. Thus, this SEIR to the Downtown Strategy 2040 FEIR has been prepared to address this potential new significant impact. The SEIR evaluation process is the same as the SEIR process as outlined below.

1.2 SEIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, state, and federal agencies on August 31, 2020 to September 30, 2020. The standard 30-day comment period concluded on September 30, 2020. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on September 17, 2020 to discuss the project and solicit public input as to the scope and contents of this SEIR. The meeting was held via Zoom Webinar. Appendix I of this SEIR includes the NOP and comments received on the NOP.

1.2.2 Draft SEIR Public Review and Comment Period

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

Maira Blanco, Environmental Project Manager
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower, San José, CA 95113
Email: Maira.Blanco@sanjoseca.gov

1.3 FINAL SEIR/RESPONSES TO COMMENTS

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

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

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

1.3.1 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office and Santa Clara County Clerk-Recorder online database 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 DESCRIPTION

Since circulation of the NOP, the applicant has modified the original project design by providing a greater setback at the rear for greater compliance with the City of San José's Downtown Design Guidelines. In addition, the project now proposes three additional stories and 18 additional units when compared to the project outlined in the NOP.

2.1 PROJECT LOCATION

The approximately 0.45-acre site is comprised of two parcels (APNs 467-47-057 and -092) located at 459, 465-469, and 475 South Fourth Street in downtown San José. The project site is developed with 16 dwelling units comprised of two apartment buildings and a single-family residence (totaling 16,883 square feet). Vehicular access to the project site is currently provided via two driveways along South Fourth Street. Refer to Figures 2.1-1 to 2.1-3 for the Regional, Vicinity, and Aerial Maps.

2.2 PROJECT DESCRIPTION

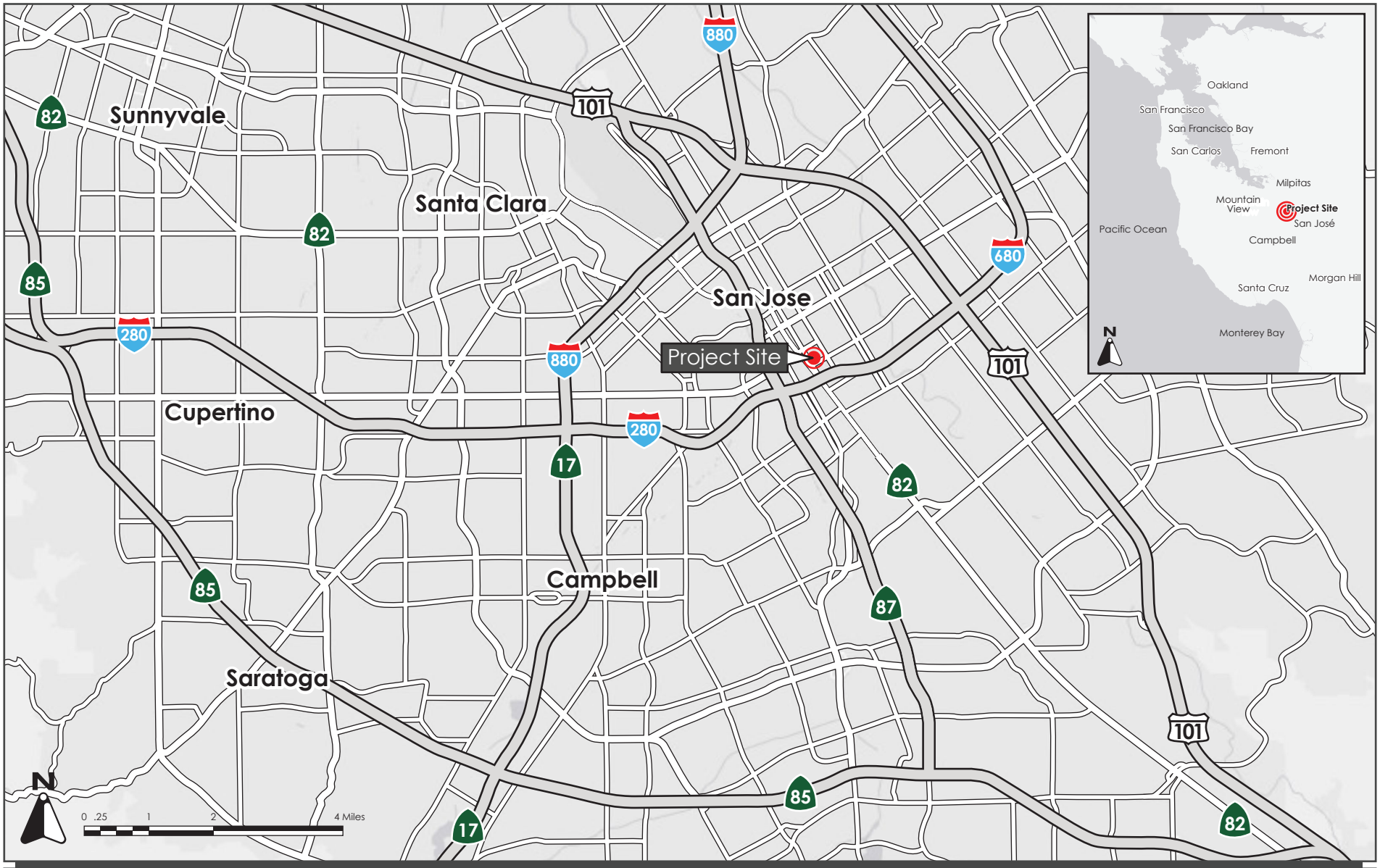
As proposed, the project would demolish the all three residential buildings and construct a 23-story tower with up to 240 dwelling units (refer to Figures 2.2-1 and 2.2-2). The building would have a maximum height of approximately 274 feet to the top of the structure with a floor area ratio (FAR) of 18.0.

Amenity space for residents is proposed on the third floor and on the roof. Proposed amenities on the third floor would include fitness space, study lounges/rooms, and three courtyards. The project proposes a deck and lounge on the roof (refer to Figure 2.2-3).

The intent of the building is to provide student housing for San José State University (SJSU). The 240 dwelling units would have a total of 750 beds. By law there cannot, however, be restrictions on who may occupy the building. As such, the building may be rented by unit or by bed. The analysis in this document assumes standard occupancy for high-rise apartments. The development shall comply with all applicable Fair Housing laws, regulations, and requirements. Refer to Figure 2.2-4 for a typical residential floor plan.

2.2.1 Site Access, Parking and Circulation

As proposed, the project proposes to remove all existing driveways and construct one 20-foot wide City standard driveway on South Fourth Street which would provide access to the parking garage inside the building. The South Fourth Street driveway would allow right in/right out movements only. The garage entrance gate would be a minimum of 50 feet behind the back of sidewalk to minimize vehicle queuing on the public sidewalk. Parking would be accommodated in a triple-high stacker spanning from the basement to the second floor which would provide up to 95 parking spaces. The proposed project would be required to provide a total of 192 off-street parking spaces. The City will allow the project to supplement its proposed on-site parking with off-site parking to meet its required 192 off-street parking requirement. The project proposes up to 172 parking spaces off-site within the garage located at 88 East San Fernando Street. The project proposes 60 bicycle parking spaces.

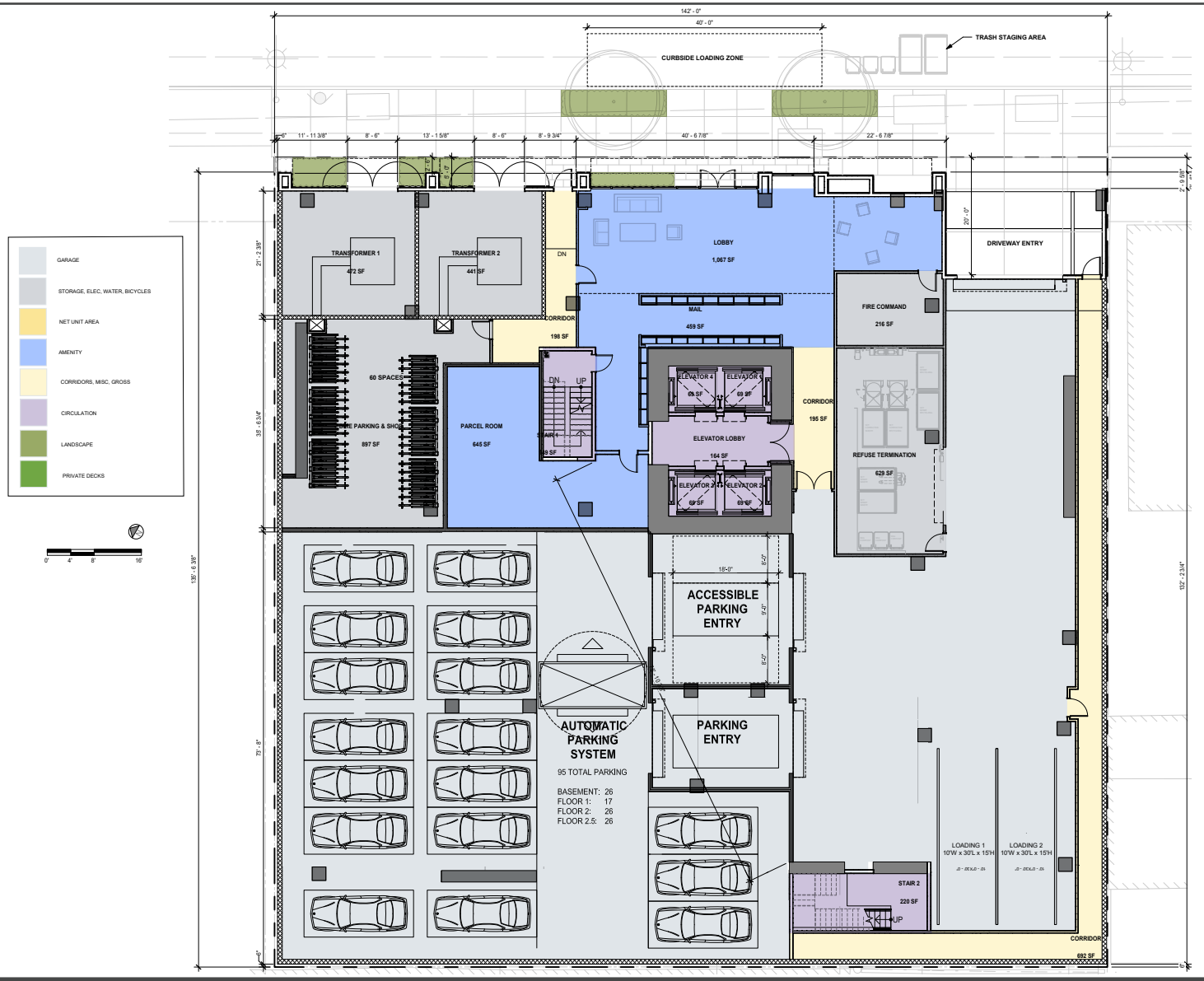


REGIONAL MAP

FIGURE 2.1-1

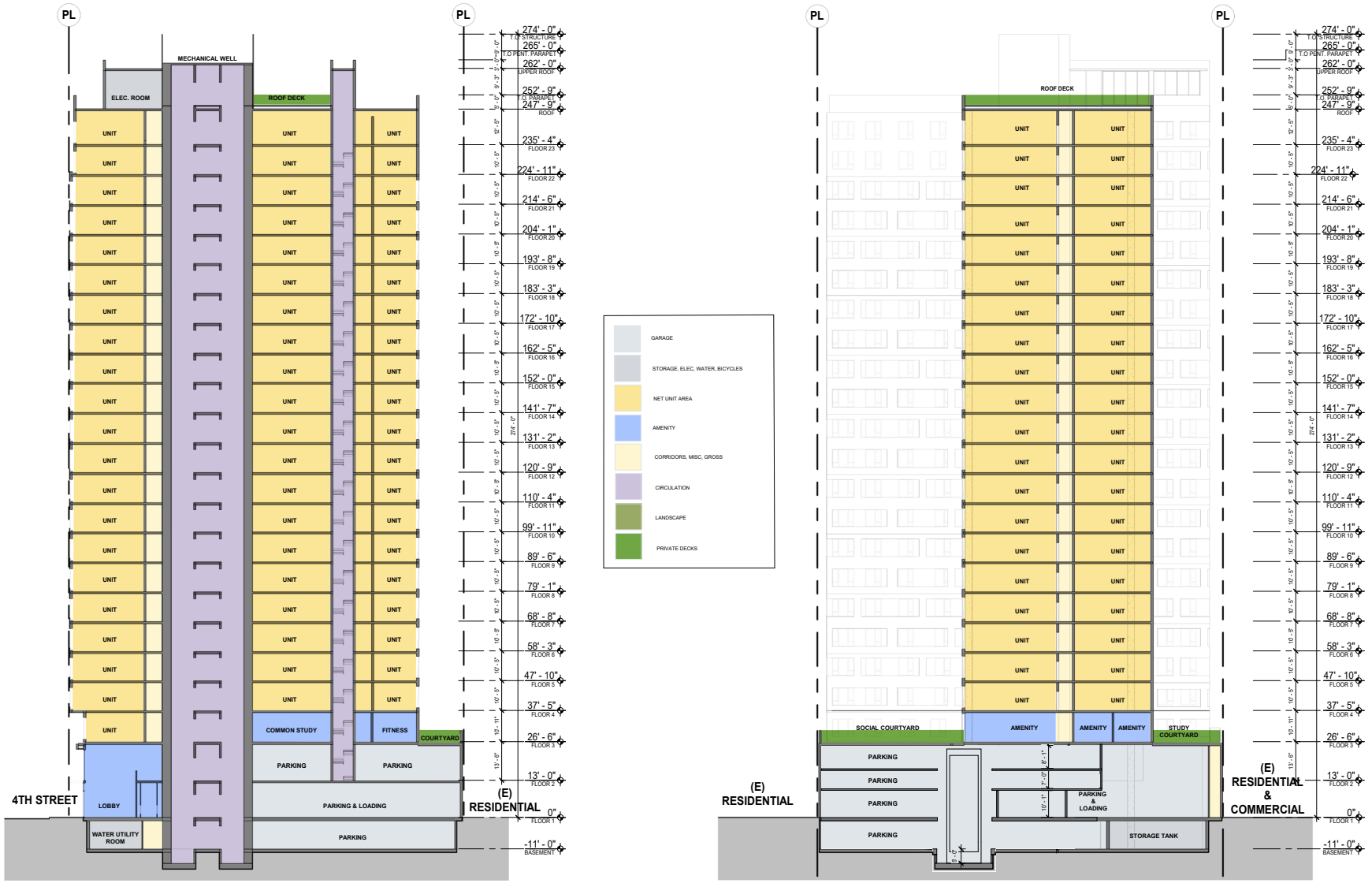
VICINITY MAP | FIGURE 2.1-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3



SITE PLAN - GROUND FLOOR

FIGURE 2.2-1

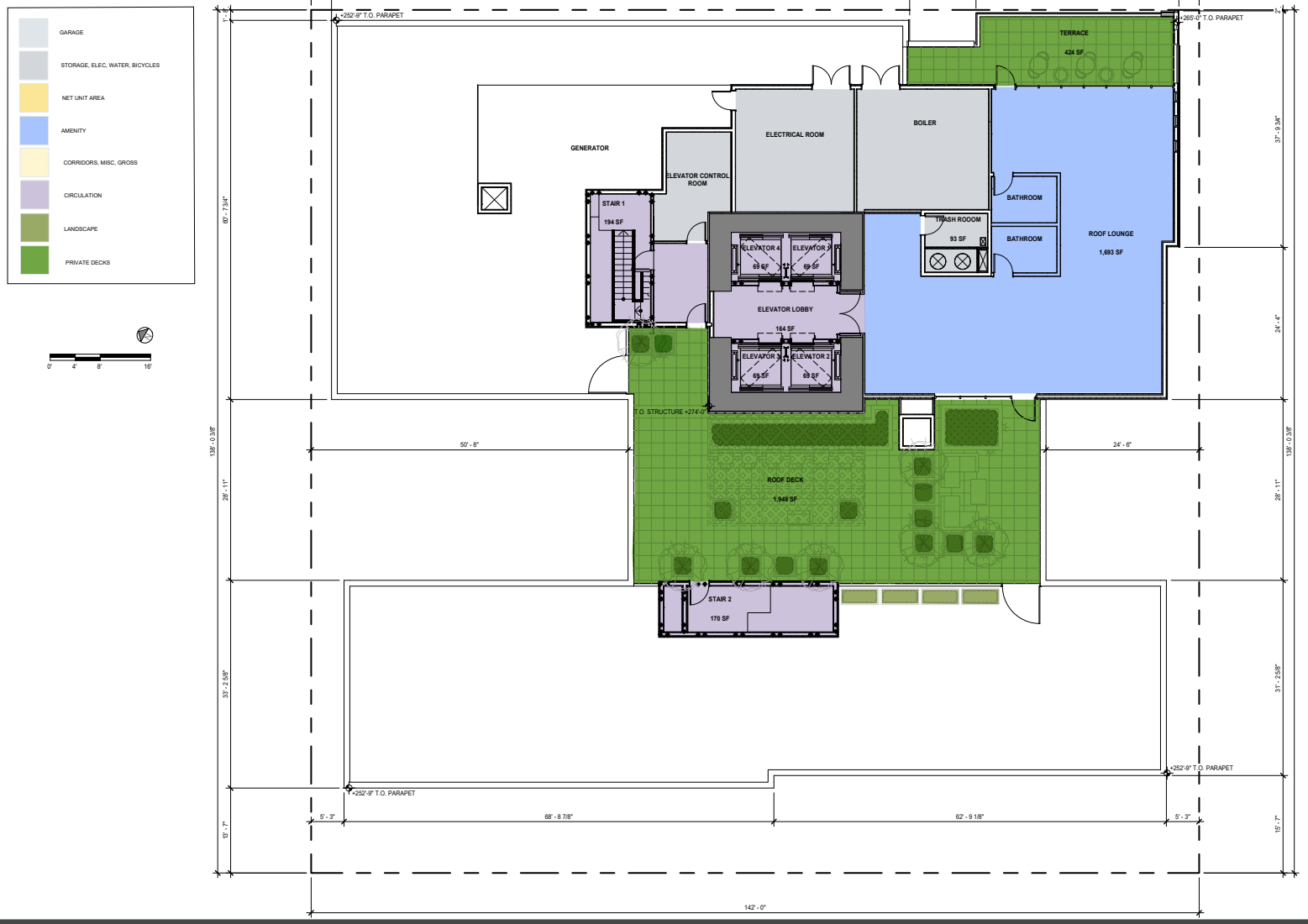


BUILDING SECTION - NORTH/SOUTH

BUILDING SECTION - EAST/WEST

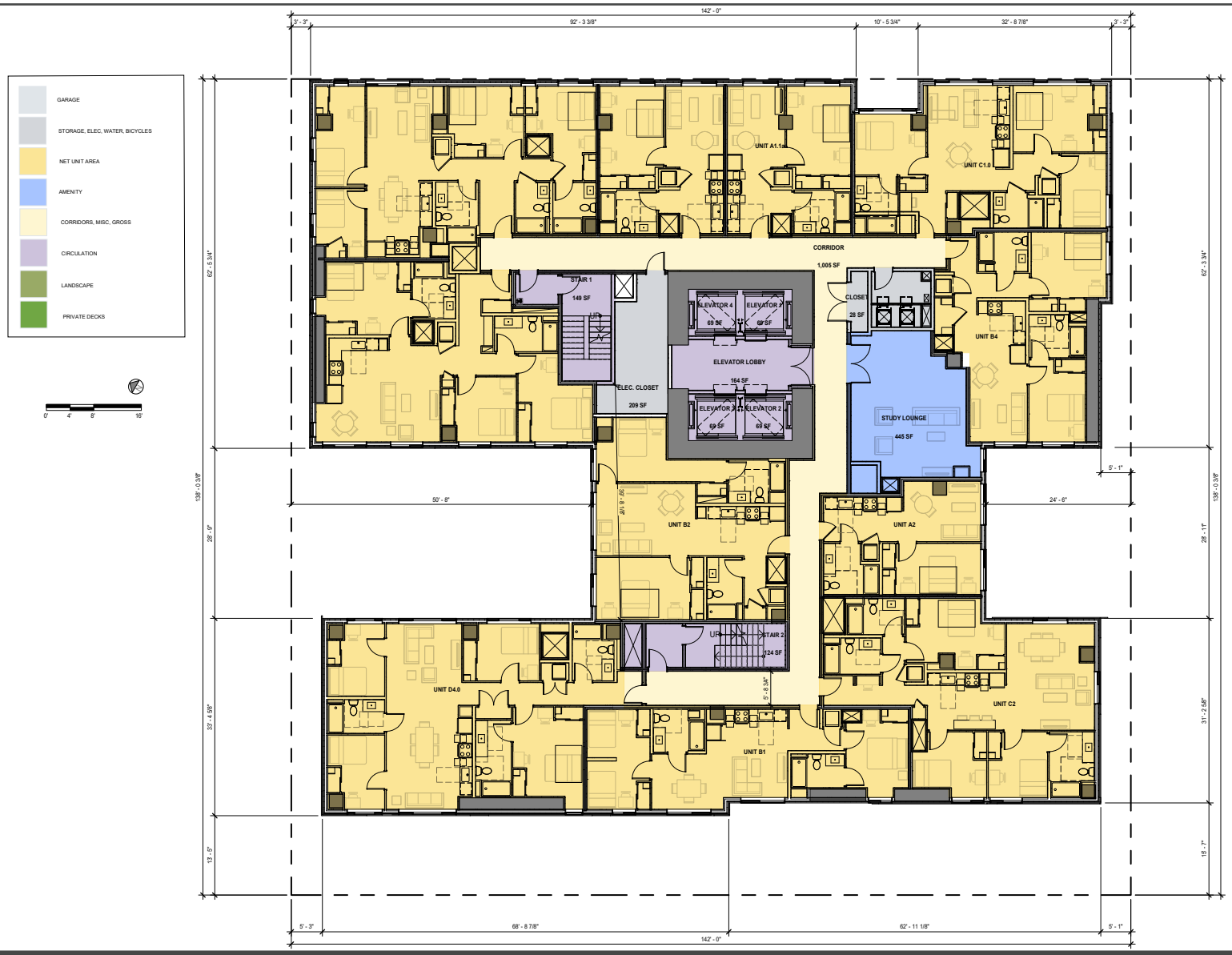
ELEVATIONS

FIGURE 2.2-2



ROOF PLAN

FIGURE 2.2-3



TYPICAL RESIDENTIAL FLOOR PLAN

FIGURE 2.2-4

Additionally, the project proposes two loading spaces within the ground floor of the parking garage consistent with the City's off-street loading standards. The loading docks will be located at the end of the garage drive aisle.

2.2.2 Mechanical Equipment

Based on the project plan set, a fire pump room, electrical room, and a water utility and storm water treatment room would be located in the basement. Transformer and trash collection rooms are proposed the ground floor and the electrical, boiler, and generator rooms are proposed on the lower roof. Refer to Figures 2.2-1, 2.2-3, and 2.2-5 for the locations of the mechanical equipment.

2.2.3 Green Building Measures

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

2.2.4 Transportation Demand Management Program

The applicant proposes the following measures as part of the transportation demand management (TDM) program for the proposed project[1]:

- Public Information Elements
- Unbundled Parking

2.2.5 Construction

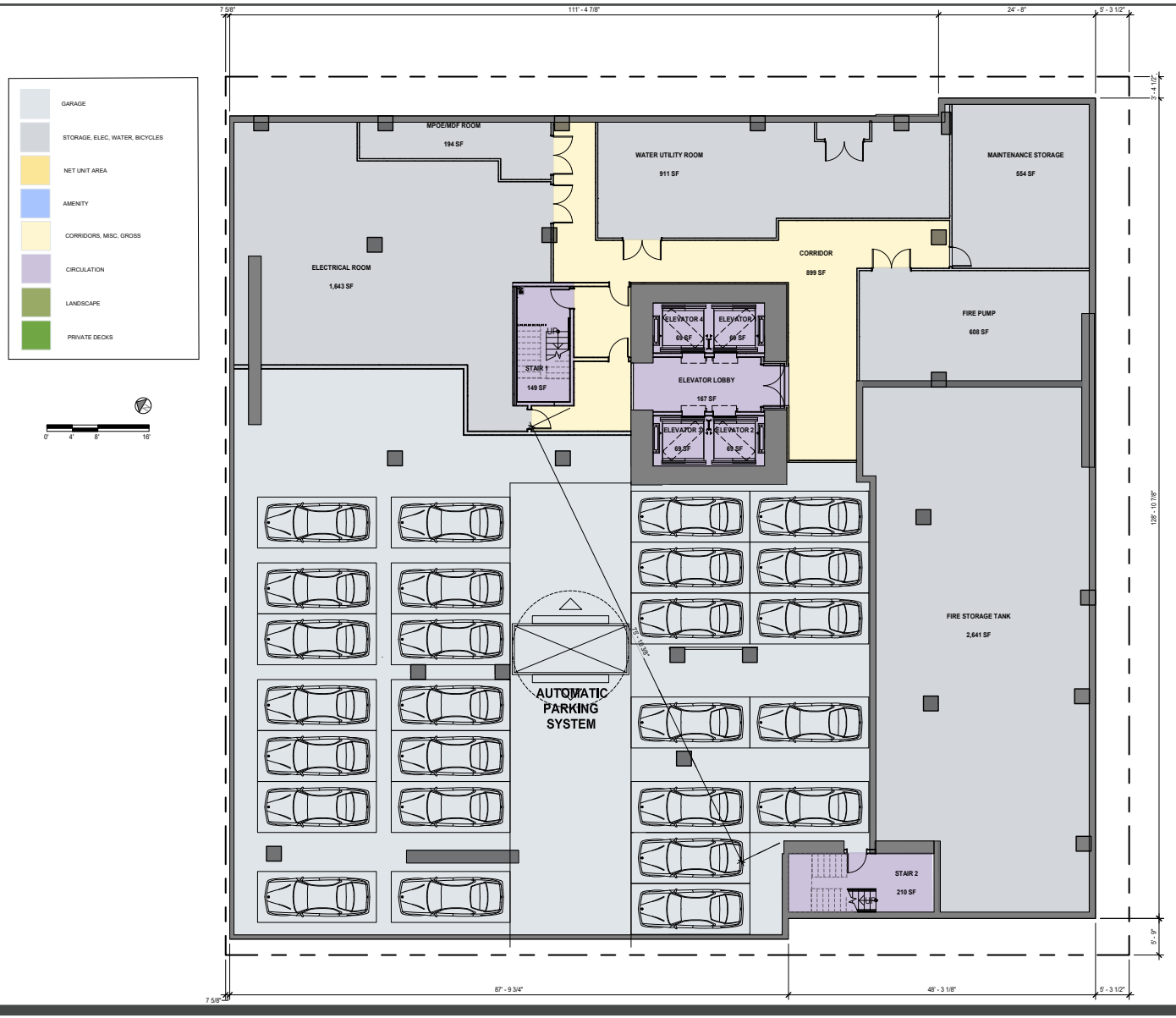
Construction of the proposed project is estimated to begin in June 2021 for a period of 24 months.

2.2.6 Envision San José 2040 General Plan and Zoning Designation

The site is designated Downtown under the City's General Plan and has a zoning designation of CG – Commercial General. The Downtown designation includes office, retail, service, residential, and entertainment uses in the Downtown. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Residential development within the Downtown designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum FAR of 30.0 and up to 800 dwelling units per acre.

The CG zoning district is intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.

[1] Hexagon Transportation Consultants, Inc. *The Mark Residential Tower Transportation Demand Management Plan*. October 28, 2020.



BASEMENT

FIGURE 2.2-5

Since the project proposes a deck and lounge on the roof and is located within 150 feet of residentially zoned property, the project would require a Special Use Permit (refer to *Section 20.40.520 Outdoor uses within 150 feet of residentially zoned property* of the City's Municipal Code).

2.3 PROJECT OBJECTIVES

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

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan of locating high density development on infill sites along transit corridors to foster transit use and the efficiency of urban services and, strengthen downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José. Specifically, provide high density, high-rise housing in the downtown area in excess of 300 units per acre that is accessible to downtown jobs, retail and entertainment and various modes of public transit.

2. Support the growth strategies by increasing the housing base in the downtown in order to reduce the overall amount of vehicle miles traveled by placing housing in proximity to jobs.

3. Advance the principal of "Smart Growth" by replacing low-density housing with surface parking with a new tower that will provide housing units in the Focused Growth area of downtown.

4. Create a high quality, well designed, high-density, high-rise residential development project in the downtown focus area to further the San José 2040 General Plan goal of creating a central identity for San José as well as adding a sense of permanency and stature to the downtown skyline.

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

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

2.4 USES OF THE SEIR

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

- Tentative Map
- Demolition Permit, Grading, and Building Permit(s)
- Special Use Permit
- Department of Public Works Clearances

- Site Development Permit

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

- Aesthetics
- Agricultural and Forestry Resources
- Biological Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire
- Mandatory Findings

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

3.1 Air Quality
3.2 Cultural Resources
3.3 Hazards and Hazardous Materials
3.4 Noise

The Initial Study prepared for the proposed project identified significant impacts to air quality, cultural resources, hazards and hazardous materials, and noise. Therefore, the air quality, cultural resources, hazards and hazardous materials, and noise sections are analyzed in detail in this SEIR.

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 summary of the approved but not yet constructed/occupied and pending projects within 0.5-mile radius of the project site.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site

Project Name	Location	Description
Approved But Not Yet Constructed and/or Occupied		
Greyhound Residential	70 South Almaden Boulevard	Construction of up to 781 residential units with approximately 20,000 square feet of ground floor retail in two high rise towers.
Museum Place	180 Park Avenue	Construction of a 24-story mixed-use building with approximately 214,000 square feet of office, 13,402 square feet of ground floor retail, 60,000 square feet of

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
		museum space, 184 hotel rooms, and 306 residential units.
200 Park Avenue Office	200 Park Avenue	Construction of an approximately 1,055,000 square foot office building with 840,000 square feet of office space, and 229,200 square feet of above-grade parking.
Spartan Keyes Senior Housing	295 East Virginia Street	Construction of a six-story below market rate senior housing with 301 studio units
Gateway Tower	455 South First Street	Construction of a 25-story building with up to 308 residential units and approximately 8,000 square feet of ground floor retail.
Aura	180 Balbach Street	Construction of a four-story building with up to 101 residential units.
San Pedro Square	195 West Julian Street	Construction of up to 381 multi-family residential units.
Second Street Hotel	605 South Second Street	Construction of a seven-story hotel with 106 guest rooms.
CityView Plaza	Northeast corner of Almaden Boulevard/Park Avenue intersection.	Construction of three new 19-story office buildings (totaling 3,574,533 of leasable office space) with 65,500 square feet of ground floor retail.
Tribute Hotel	211 South First Street	Construction of a 24-story, 279 room hotel integrated into a historic building.
Notre Dame High School Planned Development Rezoning	596 South Second Street	Construction of a three-story, approximately 29,000-square foot building for an existing private school (Notre Dame High School) and associated site improvements.
Pending		
Block 8 Office	285 South Market Street	Construction of up to a 20-story commercial building with approximately 16,500 square feet of commercial retail and approximately 628,000 square feet of commercial office.
Garden Gate Tower	600 South First Street	Construction of a 27-story, mixed-use building with either 1) up to 290 residential units and approximately 5,000 square feet of non-residential uses comprised of up to five condominium spaces or 2) co-Living facility with up to

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
		793 bedrooms, approximately 5,422 square feet of non-residential uses comprised of up to five condominium spaces
South Market Mixed-Use	477 South Market Street	Construct of a six-story mixed-use building with 130 residential units and approximately 5,000 square feet of commercial space.
South Almaden Office	Northwest corner of Almaden Boulevard/Woz Way intersection	Construction of two 16-story towers for a combined total of 1.7 million square feet of office.
Balbach Affordable Housing	Southeast corner of Balbach Street/South Almaden Boulevard intersection	Construction of an eight-story building with 87 residential units.

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

3.1 AIR QUALITY

The following discussion is based on an Air Quality Assessment prepared by *Illingworth & Rodkin* in November 2020. A copy of this report is included as Appendix B of the SEIR.

3.1.1 Environmental Setting

3.1.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed relative 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.[2] 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

[2] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

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

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).[3] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

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.

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.

[3] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed April 9, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

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

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 will 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 gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[4]

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. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality and are applicable to the project and are applicable to the project.

[4] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed April 9, 2020. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

General Plan Policies - Air Quality	
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.
MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
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.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
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.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.1.1.3 *Existing Conditions*

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

BAAQMD is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: CO, O_3, NO_2, PM_{10}, and $PM_{2.5}$. These pollutants are considered criteria pollutants by the U.S. EPA and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. 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).[5]

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

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

Source: Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries." Accessed August 3, 2020. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

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

3.1.1.4 *Sensitive Receptors*

Sensitive receptors are groups of people that are more susceptible to exposure to pollutants (i.e., children, the elderly, and people with illnesses). Locations that may contain high concentrations of sensitive population groups include residential areas, hospitals, daycare and elder care facilities, elementary schools, parks and places of assembly.

There are sensitive receptors located north, south, and east of the project site. The nearest sensitive receptors are located approximately five feet south and 20 feet north of the project site. There are also residences approximately 45 feet west and 95 feet east of the project site. Additionally, Notre Dame High School is located approximately 290 feet southwest of the project site.

[5] 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.

3.1.2 Impact Discussion

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

a) Conflict with or obstruct implementation of the applicable air quality plan

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

c) Expose sensitive receptors to substantial pollutant concentrations, and/or

d) Result in substantial emissions (such as odors) adversely affecting a substantial number of people

3.1.3 Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.1-3 below.

Table 3.1-3: BAAQMD Air Quality Significance Thresholds

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

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

Similar to the 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.

3.1.3.1 *Project Impacts*

a) Would the project conflict with or obstruct implementation of the applicable air quality 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 of 510 dwelling units[6], is considered urban infill and is consistent with the General Plan, and would be located near bike paths and transit with regional connections. Because the project would not exceed the BAAQMD screening criteria, 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. Therefore, the project would not be required to incorporate project-specific control measures listed in the 2017 CAP. Implementation of the proposed project would not result in a significant impact related to consistency with the Bay Area 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Period Emissions – Criteria Pollutants

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction activities. The proposed land uses of the project were input into CalEEMod, which included 240 dwelling units and 327,412 square feet entered as "Apartment High-Rise" and 28,476 square feet and 95 parking spaces entered as "Enclosed Parking with Elevator". Demolition of existing buildings on-site and soil export were also input into CalEEMod (refer to Appendix B of the SEIR).

Project construction would occur over a period of approximately 24 months (519 workdays) beginning in June 2021. Table 3.1-4 shows the estimated annual average daily construction emissions associated with the proposed project.

Table 3.1-4: Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction emissions (tons)				
2021	0.11	1.09	0.06	0.05
2022	1.81	3.42	0.18	0.16
2023	1.01	0.98	0.05	0.04
Average Daily Construction Emissions Per Year (pounds/day)				
2021 (145 construction workdays)	1.58	15.02	0.85	0.66
2022 (260 construction workdays)	13.92	26.32	1.40	1.21

[6] Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017.

Table 3.1-4: Construction Period Emissions				
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2023 (114 construction workdays)	17.77	17.23	0.91	0.74
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	***No***	***No***	***No***	***No***

As shown above, construction period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds. Therefore, the project would not result in a significant impact from construction criteria pollutant emissions and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Operational Period Emissions - Criteria Pollutants

Operational emissions from the project would be generated primarily from vehicles driven by future residents. Full operation of the project was assumed to begin in 2024. Trip generation rates provided by *Hexagon Transportation Consultants, Inc.*, generator and fire pump emissions, and CalEEMod defaults for energy use and emissions associated with solid waste generation and water/wastewater use were used. The project, as proposed, would install one 1,000-kilowatt (kW) emergency diesel generator and fire pump with a 150 horsepower (HP) diesel engine. The generator would be powered by a diesel engine, approximately 1,341 HP. It is assumed that the generator and fire pump would be operated for a total of 50 hours per year for testing and maintenance purposes. The assumptions and results are described further in Appendix B of the SEIR. Table 3.1-5 summarizes the estimated daily operational period criteria pollutant emissions from the proposed project.

Table 3.1-5: Operational Period Criteria Pollutant Emissions				
Scenario	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2024 Annual Project Operational Emissions (tons/year)	1.89	0.78	0.67	0.20
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceed Threshold?	***No***	***No***	***No***	***No***
2024 Daily Project Operational Emissions (pounds/day)[1]	10.38	4.29	3.66	1.10
BAAQMD Thresholds (pounds/year)	54	54	82	54
Exceed Threshold?	***No***	***No***	***No***	***No***
Note: [1]Assumes 365-day operation.				

Operational criteria pollutant emissions associated with the proposed project, when considered individually, would not result in emissions above established thresholds. The project is part of the planned growth in the downtown area and would contribute to the significant operational emissions impact identified in the Downtown Strategy 2040 FEIR. Consistent with the Downtown Strategy 2040, the project would implement a TDM plan (refer to the list of proposed TDM measures in *Section 2.2.4*) to reduce emissions associated with vehicle travel. As a result, the project would not conflict with or obstruct implementation of the 2017 CAP. **[Less Impact than Approved Project**

(Significant Unavoidable Impact)]

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

The Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of O_3 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.

The proposed project would not, by itself, result in any air pollutant emissions exceeding BAAQMD's significance thresholds as discussed above. Individually, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

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

Construction Dust Emissions

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

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 by 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 five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of "running in proper condition" prior to operation.
- Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints.

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

Construction – Community Risk Impacts

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. The nearest sensitive receptors are located approximately five feet south and 20 feet north of the project site. There are also residences approximately 45 feet west and 95 feet east of the project site. Additionally, Notre Dame High School is located approximately 290 feet southwest of the project site.

A health risk assessment of project construction activities was completed to evaluate potential health effects to nearby sensitive receptors (e.g., residences and students attending Notre Dame High School) from DPM and $PM_{2.5}$ construction emissions.[7] To quantify the effects of DPM on the nearby sensitive receptors, construction period exhaust emissions were computed using the CalEEMod model. The U.S. EPA AERMOD dispersion model was used to predict construction-related concentrations of DPM and $PM_{2.5}$ concentrations at existing sensitive receptors in the vicinity of the project site. The U.S. EPA AERMOD dispersion model, CalEEMod inputs/outputs, assumptions, and results are described further in Appendix B of this document.

Neither BAAQMD nor the City of San José have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts are used by the City. Based on the BAAQMD Guidelines (2017), a project would result in a significant construction TAC or $PM_{2.5}$ impact if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) Hazard Index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

[7] DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

Table 3.1-6 provides a summary of the construction health risk impacts at the off-site maximum exposed individual (MEI) from project construction. Figure 3.1-1 shows the maximum-modeled DPM and $PM_{2.5}$ locations. Sensitive receptors are designated in green and the MEI are circled in pink.

Table 3.1-6: Construction Risk Impacts at Off-Site MEI and Notre Dame High School

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Residential Sensitive Receptor			
Project Construction (Years 0-3) Unmitigated	**151.49 (infant)**	**0.82**	0.16
BAAQMD Single-Source threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold? **Unmitigated**	**Yes**	**Yes**	No
Notre Dame High School Student Receptor[1]			
Project Construction (Years 1-3) Unmitigated	1.23 (student)	0.02	<0.01
BAAQMD Single-Source threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?	No	No	No

Note: [1]For informational purposes.

At this location, the maximum residential cancer risk of the MEI would be 151.49 per one million cases for infant exposure which exceeds the BAAQMD threshold of 10 cases per one million. The maximum-annual $PM_{2.5}$ concentration was calculated to be 0.82 $\mu g/m^3$, which exceeds BAAQMD significance threshold of 0.3 $\mu g/m^3$. The maximum hazard index (HI) concentration is 0.16, which is below the HI of greater than 0.1. Students attending Notre Dame High School would not be exposed to cancer risk, $PM_{2.5}$ concentration, or HI exceeding BAAQMD thresholds.

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

Mitigation Measure

In addition to the Standard Permit Conditions listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce TAC emissions impacts.

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

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

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards.
- If Tier 4 equipment is not available, all construction all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 94 percent reduction in diesel particulate matter emissions.
- Cranes and portable equipment (e.g., welders and air compressors) shall be electrified. Additionally, line power shall be provided to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, air compressors, and welders.

With implementation of the required Standard Permit Conditions for dust and Mitigation Measure AIR-1.1, the construction cancer risk would be reduced to 9.21 cases per one million for infants, the maximum annual $PM_{2.5}$ concentration would be reduced to 0.05 μ/m^3, and the HI would be 0.01. The construction cancer risk, maximum annual $PM_{2.5}$ concentration, and HI would not exceed BAAQMD's single-source threshold. Therefore, the proposed project would have a less than significant construction TAC impact. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Operations – Community Risk Impacts (Traffic and Generators)

The project proposes one 1,000-kW (approximately 1,341 HP) emergency diesel generator and fire pump with a 150 HP diesel engine as shown in Figure 3.1-2 below. The generator is proposed on the rooftop while the pump is proposed in the basement. The U.S. EPA AERMOD dispersion model was used to estimate the potential cancer risks and $PM_{2.5}$ from operation of the emergency generators at nearby residences. To estimate the potential cancer risk from the generator and fire pump, the cancer risk exposure duration was adjusted to account for the MEI being exposed to construction for the first three years of the 30-year lifetime period. Therefore, construction cancer risks would occur during the first three years and operational cancer risks would occur during years four to 30 (27 years). The sensitive receptor identified as the construction MEI is also the project MEI. Refer to Appendix B of this document for more information. Table 3.1-7 provides a summary of the construction and operation risk impacts at the off-site MEI.

LOCATIONS OF ON-SITE EMERGENCY GENERATOR AND FIRE PUMP | FIGURE 3.1-2

Table 3.1-7: Construction and Operation Risk Impacts at Off-Site MEI and Notre Dame High School			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Off-Site MEI- Residential Sensitive Receptor			
Project Construction (Years 0-3)			
Unmitigated	**151.49 (infant)**	**0.82**	0.16
Mitigated	9.21 (infant)	0.05	0.01
Project Generator and Fire Pump (Years 4-30)	0.24	<0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)	**151.73**	**0.82**	0.16
Mitigated Total/Maximum Project (Years 0-30)	9.45	0.05	0.01
BAAQMD Single-Source threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	No	No	No
Notre Dame High School Student Receptor[1]			
Project Construction (Years 1-3)			
Unmitigated	1.23 (student)	0.02	<0.01
Project Generator and Fire Pump (Years 4-30)	<0.01 (student)	<0.01	<0.01
BAAQMD Single-Source threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?	No	No	No
Note: [1]For informational purposes.			

As shown in the table above, the maximum cancer risks and annual $PM_{2.5}$ concentrations from construction and operation of the project (without mitigation) would exceed BAAQMD's significance thresholds of 10 cases per one million and 0.3 $\mu g/m^3$. The HI from construction and operation of the project would not exceed BAAQMD's significance threshold of greater than 1.0. However, the project would result in a less than significant operational TAC impact to adjacent sensitive receptors with implementation of the Standard Permit Conditions and Mitigation Measure AIR-1.1. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Criteria Pollutant Emissions

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

pollutants, it is assumed to have no adverse health effect.

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

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

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and would not adversely affect people off-site. The project applicant would be required to abide by policies including General Plan Policy MS-12.2 which require adequate buffers between sources of odors and sensitive receptors. Additionally, operation of the proposed project would result in the use of cleaning supplies and maintenance chemicals which would generate temporary odors in the areas of use. Operation of the project would not generate odors that would affect people off-site. Therefore, implementation of the proposed project would not result in odors that would adversely affect a substantial number of people. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.1.3.2 *Cumulative Impacts*

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

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

The BAAQMD *CEQA Air Quality Guidelines* (2017) recommend 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.

Cumulative TAC Sources in the Project Area

Mobile Sources

A review of the area indicates that South Third Street and South Fourth Street are the only substantial sources of mobile TAC emissions within 1,000 feet of the project site and have average daily traffic (ADT) above 10,000 vehicles. The ADT on South Third Street and South Fourth Street was estimated to be 11,755 and 10,900 vehicles, respectively.

Stationary Sources

Stationary sources are facilities that contain sources of TACs such as a generator or gas station. Nearby stationary sources were identified using BAAQMD's *Permitted Stationary Sources 2018* geographic information system map website which identifies the location of stationary sources and their estimated risk and hazard impacts. Three stationary sources were identified; two of which are diesel generators and one is a gas station.

Construction Risk Impacts from Nearby Development

Within 1,000 feet of project site, there is one project (South Fourth Street Mixed-Use project File No. H17-004) that could have overlapping construction. The South Fourth Street Mixed-Use project is located immediately north of the project site. For the purposes of this analysis, it is assumed that the proposed project would overlap with the first three years of the South Fourth Street Mixed-Use project construction schedule. The adjacent development is anticipated to begin construction in 2021 and become operational in 2025.

Table 3.1-8 below summarizes nearby mobile and stationary sources of TACs at the off-site MEIs. Figure 3.1-3 shows the project site and the nearby TAC and $PM_{2.5}$ sources, as well as construction risks from the nearby development.

Table 3.1-8: Cumulative Sources at Project MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Unmitigated Total/Maximum Project (Years 0-30)	151.73	0.82	0.16
Mitigated Total/Maximum Project (Years 0-30)	9.45	0.05	0.01
South Fourth Street and South Third Street	1.48	0.59	<0.01
Facility ID #111979, MEI at 90 feet	1.73	-	0.01
Facility ID #9339-17, MEI at 650 feet	0.93	<0.01	<0.01
Facility ID #9339-8, MEI at 650 feet	<0.01	-	<0.01
Nearby Development – 431 & 439 South Fourth Street (mitigated)	3.18	0.04	0.01
Combined Sources Unmitigated Mitigated	 **<159.06** 16.78	 **<1.46** <0.69	 <0.21 <0.06
BAAQMD Cumulative Source threshold	***>100***	***>0.8***	***>10.0***
Exceed Threshold? **Unmitigated**	 **Yes**	 **Yes**	 No

Impacts from the combined sources of TACs at the project MEI exceed BAAQMD thresholds for cancer risk and $PM_{2.5}$ concentration. With implementation of Mitigation Measure AIR-1.1, the combined sources would be reduced to 16.78 cases per million for infant cancer risk, 0.69 or less for annual $PM_{2.5}$, and would have a HI 0.06 or less. Based on the above, the project would not have a cumulatively considerable impact on air quality. **[Less Impact than Approved Project with Mitigation (Significant Unavoidable Cumulative Impact)]**

ON-SITE PROJECT SENSITIVE RECEPTORS AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 3.1-3

3.1.3.3 *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 air quality conditions affecting a proposed project.

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure that future sensitive receptors on-site are not exposed to substantial TAC emissions.

Operational Community Risk Impacts – New Residences

Figure 3.1-3 above shows the project site and the nearby TAC and $PM_{2.5}$ sources, as well as construction risks from the nearby development. Table 3.1-9 provides a summary of nearby TAC and $PM_{2.5}$ sources of air pollution. As discussed previously, the adjacent development would begin construction in 2021 and begin operating in 2025. Future project residences on-site would be exposed to the last two years of construction (e.g., years 2024 and 2025) from the South Fourth Street Mixed-Use project.

Table 3.1-9: Cumulative Sources to Future Project Residences

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
South Fourth Street and South Third Street	0.75	0.27	<0.01
Facility ID #111979, MEI at 90 feet	1.73	-	0.01
Facility ID #9339-17, MEI at 650 feet	1.16	<0.01	<0.01
Facility ID #9339-8, MEI at 650 feet	<0.01	-	<0.01
Nearby Development – 431 & 439 South Fourth Street (mitigated)	3.18	0.04	<0.01
Combined Sources	6.83	<0.32	<0.05
BAAQMD Cumulative Source threshold	***>100***	***>0.8***	***>10.0***
Exceed Threshold?	No	No	No

The combined effects of the identified TAC sources would be below the BAAQMD thresholds of significance and, as a result, the proposed project would comply with General Plan Policy MS-10.1, MS-11.1, and MS-11.2.

3.2 CULTURAL RESOURCES

Archaeological Resources

The following discussion is based upon a Literature Search completed by *Holman & Associates* in July 2020. A copy of the Archaeological Literature Search is on file at the Department of Planning, Building and Code Enforcement.

Historic Resources

The following information is also based on a Historic Resources Evaluation prepared by *TreanorHL* in February 2021. The Historic Resource Evaluation[8] can be found in Appendix C of this document.

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) 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 [CFR] 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.

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility include:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
    - Association with events that have made a significant contribution to the broad patterns of history;
    - Association with the lives of persons significant in the past;

[8] Note that there are discrepancies (e.g., building construction dates) between the historic report prepared by *Archives and Architecture* for File No. H17-004 South Fourth Mixed-Use project and the proposed project. *Archives & Architecture* obtained data from the City's Historic Resources Inventory whereas *TreanorHL* used building permits (which they feel is more accurate). In addition, *TreanorHL* was unable to access the California Room due to COVID-19 restrictions. As a result, *TreanorHL* used alternative sources. The discrepancies between the construction dates are addressed on page 10 of Appendix C of this document. The inconsistencies would not change the conclusions of the analysis.

- Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction; or
- Has yielded, or may yield, information important to prehistory or history.

California Register of Historical Resources

The CRHR is administered by the California 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.[9]

The guidelines for identifying historic resources during the project review process under CEQA are set forth in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a). These provisions of CEQA create three categories of historical resources: mandatory historical resources; presumptive historical resources; and resources that may be found historical at the discretion of the lead agency. These categories are described below.

- **Mandatory Historical Resources**. A resource the State Historical Resources Commission lists on the CRHR, or the State Historical Resources Commission determines to be eligible for listing in the CRHR, is defined by CEQA to be a historical resource. Resources are formally listed or determined eligible for listing by the State Historical Resources Commission in accordance with the procedures set forth in the provisions of state law relating to listing of historical resources.[10] If a resource has been listed in the CRHR, or formally determined to be eligible for listing by the State Historical Resources Commission under these procedures, it is conclusively presumed to be a historical resource under CEQA.
- **Presumptive Historical Resources**. A resource included in a local register of historic resources as defined by state law[11] or identified as significant in a historical resource survey meeting the requirements of state law,[12] shall be presumed to be historically or culturally significant. The lead agency must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- **Discretionary Historical Resources.** A resource that is not determined to be a significant historical resource under the criteria described above, may, in the discretion of the lead

[9] CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.
[10] Set forth in Public Resources Code Section 5024.1 and 14 California Code of Regulations (CCR) Section 4850, et. seq.
[11] Set forth in Public Resources Code Section 5020.1(k), a local register of historical resources is a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.
[12] Under Public Resources Code Section 5024.1(g), a resource can be identified as significant in a historical resources survey and found to be significant by the State Office of Historic Preservation (i.e., listed in the CRHR) if three criteria are met: (1) the survey has or will be included in the State Historic Resources Inventory; (2) the survey and documentation were prepared in accordance with State Office of Historic Preservation procedures and requirements; and (3) the State Office of Historic Preservation has determined the resource has a significance rating of Category 1 to 5 on Form 523.

agency, be found to be a significant historical resource for purposes of CEQA, provided its determination is supported by substantial evidence in light of the whole record. The CEQA Guidelines further provide that generally, a lead agency should consider a resource historically significant if the resource is found to meet the criteria for listing on the CRHR, including the following:

- Criterion 1 (Events): The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States; or
- Criterion 2 (Persons): The resource is associated with the lives of persons important to local, California, or national history; or
- Criterion 3 (Architecture): The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values, or
- Criterion 4 (Information Potential): The resource has the potential to yield information important to the prehistory or history of the local area, California, or the nation.[13]

Historical resources eligible for listing in the CRHR must meet one of the criteria of significance described above *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 California and National Registers, and the same seven variables or aspects to define integrity are used to 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

[13] CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. Accessed July 29, 2020. https://ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

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.

City of San José

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 May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. 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 Contracts, and various land use and zoning incentives.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the project.

General Plan Policies - Cultural Resource	
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
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.

LU-16.4	Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials
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.
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.
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.

3.2.1.2 *Existing Conditions*

Archaeological 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 3000 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.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The nearest waterway to the project site is Guadalupe River, located approximately 0.5 miles west.

Literature Search

In July 2020, *Holman & Associates* completed a literature review to identify potential archaeological deposits below the ground surface on-site and in the immediate project vicinity. No recorded prehistoric archaeological sites were identified on or within 1,000 feet of the project site. Based on the literature search, the project site has low to moderate potential for Native American resources and high potential for historic-era archaeological resources.

Historic Resources

Historic Context

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

The pueblo was originally near the old San José City Hall. Because the location was prone to flooding, 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 is located approximately 0.6 miles northwest of the project site.

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. By 1868, the Southern Pacific Railroad was constructed along Fourth Street which resulted in an intensification of industrial development in the area.

During the second half of the 19th century, a number of breweries were constructed in the area. The earliest breweries in San José were established in the 1850s by German immigrants. The breweries were surrounded by little cottages which provided housing for the workers. The first brewery, Eagle Brewery, was located along Market Street. In the 1860s, the project block was developed with residential structures which were replaced in the late 19th and early-to-mid 20th century by light industrial and residential development. By 1868, the Southern Pacific Railroad was constructed along Fourth Street, adjacent to the project site. The Southern Pacific Railroad resulted in an intensification of industrial development in the area. During the second half of the 19th century, a number of breweries were constructed in the area. In 1870, a brewery (owned by Phillip Doerr) was constructed on the north side of William Street between Third and Fourth Street and was surrounded by small cottages which housed the workers. Based on the 1891 Sanborn Map, one- to two-story cottages with full-width front porches were located along South Fourth Street.

Structures On-Site

459 South Fourth Street

NRHP/CRHR Evaluation

The one-story single-family residence (constructed circa 1900[14]) is listed on the City's Historic Resources Inventory as a Structure of Merit. The residence is of wood-frame construction with horizontal wood cladding and a gable roof in the National style. A raised front porch and a lower gable roof is located on the eastern building façade facing South Fourth Street. All windows are boarded up and all openings have simple wide trim. The building is currently vacant. The northern and southern façades have three rectangular windows of different sizes. The western façade also has three rectangular window openings and a single door which provides access to the yard. The building is in fair condition.

The building is not individually representative of any important patterns of development within the City nor is the building associated with significant events. Therefore, the building would not be eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. The building is not associated with persons of local significance; therefore, the buildings would not be eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. While the building exhibits some architectural characteristics of the National style (e.g., massing, front facing gable roof, and raised porch), it is not a distinguished example of this architectural style; therefore, it would not be eligible under Criterion C of the NRHP or Criterion 3 of the CRHR. The residence does not have the potential to yield any prehistory or history of the area, therefore, the residence would not be eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

Aspects of Integrity

Historic integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. The building retains its integrity of location, association, and feeling since it has not been moved and it has been used as a single-family residence since its construction. The building has not been altered and retains its integrity of design, materials, and workmanship. The physical environment of this site has been compromised since the early 1900s due to residential and commercial development.

[14] As noted in TreanorHL's Historic Resources Evaluation, while the City's Historic Resources Inventory notes the construction date as circa 1880, the residence was likely constructed circa 1900 based on the Assessor's records, City directories, and Sanborn Maps.

City of San José City Landmark Evaluation

The following is an evaluation of the building against the City of San Jose's Historic Landmark Designation Criteria, as outlined in the San Jose Municipal Code Section 13.48.100 H. As discussed below, the residence at 459 South Fourth Street does 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;

   The building does not possess special character, interest, or value to the local, regional, state, or national history, trends in history, or cultural of the community and is not eligible under this criterion.

2. Its location as a site of a significant historic event;

   The building is not located at the site of a significant historic event and is not eligible under this criterion.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;

   The building is not associated with any person(s) who significantly contributed to the local, regional, state, or national history and is not eligible under this criterion.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

   The building does not exemplify cultural, economic, social, or historic heritage of the City and is not eligible under this criterion.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

   The architectural design of the building does not portray a group of people in history and is not eligible under this criterion.

6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

   Although the building represents the National style of architecture, it utilizes common construction and materials with no distinguishing characteristics or an architectural type or specimen. The building is not eligible under this criterion.

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;

The building was not built by a notable architect or master building and is not eligible under this criterion.

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 building does not contain any unique or architectural innovations and is not eligible under this criterion.

In conclusion, the building would not be eligible for listing under the NRHP or CRHR and is not eligible for listing as a Candidate City Landmark.

465-469 South Fourth Street

NRHP/CRHR Evaluation

The two-story multi-family residence (constructed in 1939) is located at 465-469 South Fourth Street and is listed in the City's Historic Resources Inventory as an Identified Site/Structure. The residence is built in the Spanish Colonial Revival architectural style. The multi-family residence has textured stucco cladding and a gable roof. A front porch with a gable roof and two square posts is located at the southeast corner on the street facing façade. A fixed window with decorative wood shutters is located on the north side of the porch. There are three wood-sash windows located on the second floor. At the northern end, an arched doorway and a wood fence door provide access to the side yard. The most prominent feature of the northern building façade is the brick chimney located at the east end.

The rear façade consists of wood-sash windows on each floor. A wood door with a glass panel is located at the northwest corner with an awning supported by decorative wood brackets. A wood door with a glass panel and five windows is located on the first floor on the southern façade. Four rectangular windows are located on the second floor.

The building was constructed during the period when City officials were encouraging higher-density infill development. Although the residence replaced one single-family residence along South Fourth Street, it is not representative of any important patterns of development within San José. Therefore, the building would not be eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. The building is not associated with persons of local significance; therefore, the buildings would not be eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. While the building has some Spanish Colonial Revival style architectural characteristics (e.g., stucco cladding, gable roof, exposed rafter ends, and wood casement windows), it is not a distinguished example of this

architectural style; therefore, it would not be eligible under Criterion C of the NRHP or Criterion 3 of the CRHR. The residence does not have the potential to yield any prehistory or history of the area, therefore, the residence would not be eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

Aspects of Integrity

The building retains its integrity of location, association, and feeling since it has not been moved and it has been used as a multi-family residence since its construction. The building has not been altered and retains its integrity of design, materials, and workmanship. The physical environment of this site has been compromised by the construction of the 475 South Fourth Street apartment building as well as other nearby residential and commercial development.

City of San José City Landmark Evaluation

The residence at 465-469 South Fourth Street does 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;

   The building does not possess special character, interest, or value to the local, regional, state, or national history, trends in history, or cultural of the community and is not eligible under this criterion.

2. Its location as a site of a significant historic event;

   The building is not located at the site of a significant historic event and is not eligible under this criterion.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;

   The building is not associated with any person(s) who significantly contributed to the local, regional, state, or national history and is not eligible under this criterion.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

   While the building is associated with downtown residential development during the second quarter of the 20th century, it does not exemplify cultural, economic, social, or historic heritage of San José. Therefore, the building is not eligible under this criterion.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

The architectural design of the building does not portray a group of people in history and is not eligible under this criterion.

6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

   The building utilizes common construction and materials with no distinguishing characteristics or an architectural type or specimen. The building is not eligible under this criterion.

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;

   The building was not built by a notable architect or master building and is not eligible under this criterion.

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 building does not contain any unique or architectural innovations and is not eligible under this criterion.

The building would not be eligible for listing under the NRHP or CRHR and is not eligible for listing as a Candidate City Landmark.

475 South Fourth Street

NRHP/CRHR Evaluation

The two-story multi-family residence, constructed in 1960, is of Midcentury Modern architecture. It is wood-frame construction with stucco cladding and a low-pitched hipped roof with wide eave overhangs. An asphalt driveway and a metal gate are located north of the building which provide access to the courtyard. Carports are tucked under the west and south sections of the building at the rear. The street facing façades have brick cladding. The windows are primarily slider windows with no trim.

Stucco decorative features (a diamond with horizontal bands on each side) are located at the center of the eastern façade. Metal railings are present below two of the windows. The north façade has three windows at each level. A metal staircase with concrete steps is located at the northern end and a

wood staircase at the eastern end.

The property was constructed in 1960 during the postwar population growth in San José. To accommodate the growth, apartment buildings were constructed. Although the building was built during this period, it is not representative of any important patterns of development within San José. Therefore, the building would not be eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. No person of significance appears to have lived at the property and the property does not feature special architectural design, therefore, the property does not appear to be eligible under Criterions B and C of the NRHP or Criterions 2 or 3 of the CRHR. The residence does not have the potential to yield any prehistory or history of the area, therefore, the residence would not be eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

Aspects of Integrity

The building retains its integrity of location, association, and feeling since it has not been moved and it has been used as a multi-family residence since its construction. The building has not been altered and retains its integrity of design, materials, and workmanship. The physical environment of this site has been compromised by nearby residential and commercial development.

City of San José City Landmark Evaluation

As discussed below and further in Appendix C, the residence at 475 South Fourth Street does 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;

   The building does not possess special character, interest, or value to the local, regional, state, or national history, trends in history, or cultural of the community and is not eligible under this criterion.

2. Its location as a site of a significant historic event;

   The building is not located at the site of a significant historic event and is not eligible under this criterion.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;

   The building is not associated with any person(s) who significantly contributed to the local, regional, state, or national history and is not eligible under this criterion.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

   While the building was constructed as part of the mid-20th century residential development in the downtown area, it does not exemplify cultural, economic, social,

or historic heritage of the City and is not eligible under this criterion.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

   The building is a modest representation of Midcentury Modern architecture in San José. Downtown San José has stronger examples of Midcentury Modern architecture. Therefore, the building is not eligible under this criterion.

6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

   The building is a modest representation of Midcentury Modern architecture in San José. It has no distinguishing characteristics of an architectural type and is not eligible under this criterion.

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;

   The building was not built by a notable architect or master building and is not eligible under this criterion.

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 building does not contain any unique or architectural innovations and is not eligible under this criterion.

The site would not be eligible for listing under the NRHP or CRHR and is not eligible for listing as a Candidate City Landmark.

Adjacent Off-Site Properties

There are 21 parcels within 200 feet of the project site that were analyzed for potential consideration as historic resources. According to the City's Historic Resources Inventory, seven properties have been listed in the City's Historic Resources Inventory. These buildings are shown on Figure 3.2-1 with assigned numbers for reference. Table 3.2-1 provides a summary of the buildings within 200 feet of the project site.

NEARBY BUILDINGS SURROUNDING THE PROJECT SITE | FIGURE 3.2-1

Table 3.2-1: Buildings Within 200 Feet of the Site				
Building No.	**Building Name**	**Address**	**Year Built**	**Significance**
1	IRC Environmental Consulting	430 South Fourth Street	1950	Eligible as a Structure of Merit. Not eligible for California Register or City Landmark
2	Surface parking lot associated with 430 South Fourth Street	442 South Fourth Street	N/A	Not Eligible
3	Surface parking lot associated with 430 South Fourth Street	448 South Fourth Street	N/A	Not Eligible
4	Six-unit apartment building	452 South Fourth Street	1957	Not Eligible
5	Troy Apartments	460 South Fourth Street	1964	Not Eligible
6	Alkadee Apartments	470 South Fourth Street	1954	Not Eligible
7	Gasoline service station	498 South Fourth Street	1950	Not Eligible
8	Wright Residence	167 East William Street	1924	Listed Candidate City Landmark, Contributing Site/Structure
9	Doerr Residence	169 East William Street	1909	Listed Candidate City Landmark, Contributing Site/Structure, Structure of Merit
10	Four-story apartment building	148 East William Street	1965	Not Eligible
11	Siefert Residence	502 South Third Street	1918	Listed Structure of Merit
12	McCormick Triplex/Spartan Barbershop	141 East William Street	1927	Eligible for CRHR and as a City Landmark Structure
13	Two-story residence	127 East William Street	1923	Not Eligible
14	Greeninger Residence	488 South Third Street	Circa 1903	Listed Eligible for CRHR and as a Candidate City Landmark
15	Mojmir Apartments	470 South Third Street	1922	Listed Eligible for NRHP and CRHR and as a City Landmark Structure
16	Casa Joya Apartments	452 South Third Street	Circa 1948	Eligible as a Structure of Merit
17	Metro Garden Patio Apartments	420 South Third Street	1956-1957	Not Eligible
18	Rucker Mansion	418 South Third Street	1891	Listed Eligible for NRHP and CRHR and

Table 3.2-1: Buildings Within 200 Feet of the Site				
Building No.	**Building Name**	**Address**	**Year Built**	**Significance**
				as a City Landmark Structure
19	Griffiths Apartments	405 South Fourth Street	1950	Eligible for CRHR and as a Candidate City Landmark
20	Metro Station Apartments	439 South Fourth Street	1960	Not Eligible
21	Hollister Residence	451 South Fourth Street	1864	Listed Structure of Merit

Notes: The rows shaded in grey are currently listed in the City's Historic Resources Inventory.
Building No. 12 was not specifically called out in the historic report. The significance was obtained from the historic report prepared for File No. H17-004 South Fourth Mixed-Use project.

Based on the reconnaissance survey, there are two vacant lots and one building (490 South Third Street) that is not age eligible for listing as a historic resource. The remaining 19 parcels includes 20 buildings. Of the 20 buildings, 10 buildings were constructed between 1950 and 1965, six buildings were constructed between 1918 and 1948, and four buildings were constructed between 1864 and 1909. Architectural styles identified include Victorian, Queen Anne, Neoclassical, Craftsman, Spanish Eclectic, National, Mission Revival, Renaissance Revival, Midcentury Modern, Streamline Moderne, Minimal Traditional, vernacular, utilitarian, and contemporary. None of these architectural styles are predominant within the area.

Based on *TreanorHL's* visual assessment, none of the buildings constructed between 1950 and 1965 have any individual historic architectural significance. *Archives & Architecture* found the Griffiths Apartments (405 South Fourth Street) potentially eligible for listing in the CRHR and as a Candidate City Landmark and noted that it would require a more intense-level investigation for actual listing. Of the buildings constructed from 1918 to 1948, the structures located at 141 East William Street, 127 East William Street, and 452 South Third Street were not previously listed on the City's Historic Resources Inventory. Based on *Archives and Architecture's* reconnaissance survey, the triplex at 141 East William Street was found potentially eligible for listing in the CRHR and as a Candidate City Landmark. Although the properties at 127 East William Street and 452 South Third Street maintain their architectural styles and have not had significant alterations; neither stands out as a unique or exceptional example of its historic architectural style.

Refer to Appendix C for a photo and description of each property and Table 3.2-2 for a summary of the reconnaissance survey.

Table 3.2-2: Reconnaissance Survey Summary Table					
Number of Parcels/Buildings	**Construction Date**	**Architectural Style**	**Previously Identified Historic Resources**	**Significantly Altered**	**Notes**
2 parcels	N/A	N/A	0		Vacant lots

Table 3.2-2: Reconnaissance Survey Summary Table					
Number of Parcels/Buildings	**Construction Date**	**Architectural Style**	**Previously Identified Historic Resources**	**Significantly Altered**	**Notes**
1 building	2007	Contemporary (1)	1		Not age-eligible
10 buildings	1950-1965	Midcentury Modern (1), Minimal Traditional (1), Streamline Moderne (1), vernacular (6), utilitarian (1)	0	0	
6 buildings	1918-1948	Craftsman (2), Neoclassical (1), Mission Revival (1), Renaissance Revival (1), Spanish Eclectic (1)	3	0	
4 buildings	1864-1909	Victorian (1), Queen Anne (2), National (1)	4	0	

Historic District Evaluation

None of the buildings on the project site are eligible as a historic district under local criterion. All three buildings reflect different periods of residential development in the downtown and have different architectural styles.

3.2.2 Impact Discussion

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

1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
3) 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, Candidate City Landmark, City Landmark Historic District, or Candidate City Historic District Landmark.

3.2.2.1 *Project Impacts*

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

Buildings On-Site

The proposed project includes demolition of three existing buildings on-site which are over 50 years in age. As mentioned previously, none of these buildings would be eligible for listing under the NRHP, CRHR, or as a Candidate City Landmark. The residence located at 459 South Fourth Street is not associated with significant events or with persons of local significance. While the building consists of some National style architectural characteristics, it is not a distinguished example of this architectural style. Therefore, the 459 South Fourth Street residence would not be eligible for listing under the NRHP and CRHR and is not eligible for listing as a Candidate City Landmark. In regard to historic integrity, the building retains its integrity of location, association, and feeling.

The multi-family residence located at 465-469 South Fourth Street is not representative of any important patterns of development within San José nor is the building a distinguished example of the Spanish Colonial Revival architectural style. Additionally, the residence is not associated with persons of local significance. Therefore, the 465-469 South Fourth Street residence would not be eligible for listing under the NRHP and CRHR and is not eligible for listing as a Candidate City Landmark. In regard to historic integrity, the building retains its integrity of design, materials, and workmanship.

The multi-family residence located at 475 South Fourth Street is not representative of any important patterns of development within San José and no person of significance appears to have lived at the property. The site does not consist of any special architectural design. Therefore, the 475 South Fourth Street residence would not be eligible for listing under the NRHP and CRHR and is not eligible for listing as a Candidate City Landmark. In regard to historic integrity, the building retains its integrity of design, materials, and workmanship.

As mentioned previously, the single-family residence located at 459 South Fourth Street is listed as a Structure of Merit under the City's Historic Resources Inventory. While Structures of Merit do not qualify as historical resources under the CEQA, the City's General Plan includes land use policies that address structures of lesser historic significance. Therefore, any development that includes demolition of a structure eligible for or listed on the City's Historic Resources Inventory shall be required to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials consistent with General Plan Policy LU-16.4. Consistent with the Downtown Strategy 2040 FEIR, the project shall include the following conditions.

Standard Permit Conditions:

- **Documentation.** Prior to the demolition of any Structure of Merit, the structure shall be photo-documented to an archival level consisting of selected views of the building to the following standards:
    - Cover sheet - The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
    - Lenses - No soft focus lenses. Lenses may include normal focal length, wide angle and telephoto.

- Filters – Photographer's choice. Use of a polarized screen is encouraged.
- View - Perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
- Lighting - Sunlight is usually preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
- Technical - All areas of the photograph must be in sharp focus.

The project shall coordinate the submission of the photo-documentation, including the original prints and negatives, to History San José. Digital photos may be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and shall be submitted with the above documentation. The above documentation shall be accompanied by a transmittal stating that the documentation is submitted as a Standard Measure to address the loss of the historic resource which shall be named and the address stated and coordinated with the City's Historic Preservation Officer.

- **Relocation or Salvage.** Prior to demolition, the City will offer the single-family residence for relocation. The City's "offer for relocation" will be placed in a newspaper of general circulation, posted on a website, and posted on the sites for a period of no less than 30 days. In the event that relocation is not possible, prior to demolition the structure and site shall be retained a reasonable period of time as determined by the Director of Planning and made available for salvage to the general public and companies facilitating the reuse of historic building materials.

With implementation of the identified Standard Permit Conditions, redevelopment of the proposed project would have a less than significant impact on on-site historic resources.

Impacts to Properties Adjacent to the Project Site

Buildings within 200 feet of the project site have been found to qualify as historic resources under CEQA. As described above, listed in Table 3.2-1 and further analyzed in Appendix C, two buildings (Buildings 15 – Mojmir Apartments at 470 South Third Street and 18 – Rucker Mansion at 418 South Third Street) have been found to be eligible for listing in the NRHP, four buildings (Buildings 12 - McCormick Triplex/Spartan Barbershop at 141 East William Street, 14 - Greeninger Residence at 488 South Third Street, 18, and 19 - Griffiths Apartments at 405 South Fourth Street) have been found to be eligible for listing under the CRHR and as a Candidate City Landmark and two buildings (Buildings 8 and 9) are listed Candidate City Landmarks. Building 15 is listed as a City Landmark Site/Structure in the City's Historic Resources Inventory. Buildings 8 - Wright Residence at 167 East William Street and 9 - Doerr Residence at 169 East William Street are also listed Contributing Structures within the Reed City Landmark Historic District. In addition, two building (Building 1 - IRC Environmental Consulting at 430 South Fourth Street and 16 - Casa Joya Apartments at 470 South Third Street) have been identified as eligible Structures of Merit and three buildings (Building 9, 11 - Siefert Residence at 502 South Third Street, and 21 - Hollister Residence at 451 South Fourth Street) are listed Structures of Merit. Three (Buildings 12, 14, and 15) are immediately adjacent to

the project site and share property boundaries.

The project is not an addition to or alteration of an existing historic resource; therefore, the Secretary of the Interior's Standards for Rehabilitation were not used to evaluate the project's impacts to adjacent historic resources. The Secretary of the Interior's Standards for Rehabilitation are included in Appendix C of this document for informational purposes only. Due to the concentration of identified historic resources adjacent to the project site, the proposed project was assessed for consistency with the 2004 San José Downtown Historic Design Guidelines and the 2019 San José Downtown Design Guidelines and Standards to evaluate whether the proposed project would result in a significant impact to any of the identified historic resources.

2004 San José Downtown Historic Design Guidelines

The 2004 Draft San José Downtown Historic Design Guidelines (2004 Historic Guidelines) provide criteria for addressing new construction adjacent to historic resources. The Historic Guidelines identify eight contextual elements for new construction adjacent to historic resources. These elements are: lot patterns; massing; façades; corner elements; rear façades; entries; exterior materials, and vehicular and pedestrian access.

Lot Pattern. Retain and respect historic lot patterns on the street.

Analysis: The lot pattern in the neighborhood contains a mix of narrow parcels with single-family residences and larger parcels with multi-family residences. All buildings have front setbacks with landscaped areas along the street frontage.

The project would combine two parcels. The project footprint does not include articulation that reinforces the historic patterns in the area of South Fourth Street between East San Salvador Street and East William Street. The project would have an approximately five-foot front setback from the sidewalk. Although the base of the building is divided into multiple sections along South Fourth Street, there is no articulation on the street level or entrance patterns that are similar in size and proportion to the surrounding lots. Therefore, the proposed project size would not be compatible with the lot pattern guideline.

Massing. Retain and respect the massing of historic buildings on a street.

Analysis: The neighborhood consists of gabled or hipped single-family residences and two- to three-story apartment buildings with flat roofs. The proposed 23-story residential tower would be taller than all the other buildings in the area. The proposed building would not step down in height at the front of sides. The massing is articulated above the third floor and the upper levels becomes an "H". Although this would result in articulated side façades, the overall height, massing, and scale of the tower would be larger compared to the surrounding buildings. As a result, the building design would not be consistent with the massing element of the Historic Guidelines.

Façades. Retain and respect the historic patterns of historic façades on a street.

Analysis: There is no consistent façade pattern in this neighborhood. Therefore, this guideline is not applicable to the proposed project.

Corner Elements. Retain historic scale and relationships of corner buildings on the block and in the urban Downtown Core.

Analysis: The project site is located within the interior of the block. This guideline is not applicable to the proposed project.

Rear Façades. Retain and respect features of existing historic rear façades and sites, taking into consideration the pedestrian and loading access from secondary streets, parking lots and alleys.

Analysis: There are no consistent rear façade features in the area. This guideline is not applicable to the proposed project.

Entries. Retain and respect the scale of historic entries that connect the buildings to the street.

Analysis: Although the entries of the buildings in the area are not consistent, the proposed project provides a pedestrian entry along South Fourth Street. The building would consist of metal awnings at the front façade which would provide a compatible pedestrian scale. Therefore, the project would be consistent with applicable components of this guideline.

Exterior Materials. New building materials should match historic materials where possible. New materials should be compatible with historic materials in scale, proportion, design, color finish, texture, and durability.

Analysis: The buildings in the neighborhood utilize a variety of building materials such as stucco, wood siding, brick, wood windows and trim, wood doors and trim, metal windows with no trim, composition shingles, and red tile roofs. Most of the historic buildings in the area use stucco, wood cladding, and shingles on the exterior.

The proposed building would use cast concrete panels, metal panels, smooth plaster, and glazing and would be compatible with the historic resources. Therefore, the proposed building would be consistent with the exterior materials element of the Historic Guidelines.

Vehicular and Pedestrian Access. Retain significant historic vehicular and pedestrian access patterns of historic buildings, sites, and streets.

Analysis: Driveways to garages or carports are located along South Fourth Street. Pedestrian access is currently provided along South Fourth Street.

The proposed access patterns would be compatible with historic structures, sites, and streets. Therefore, the project would be compatible with the vehicular and pedestrian access element of the Historic Guidelines.

Of the eight 2004 Historic Guidelines, the project would comply with three of the 2004 Historic Guidelines (entries, exterior materials, and pedestrian and vehicular access). The proposed project would not comply with the lot patterns and massing elements of the 2004 Historic Guidelines. The remaining three elements (façades, corner elements, and rear façades) are not applicable.

City of San José 2019 Downtown Design Guidelines and Standards

Similar to the 2004 Historic Design Guidelines, the 2019 San José Downtown Design Guidelines and Standards (2019 Design Guidelines and Standards) provides a framework of relevant criteria for addressing new construction adjacent to eligible historic resources. The 2019 Design Guidelines and Standards include a series of "Framework Plans" that identify design constraints within the Downtown. Standards 4.2.2 Massing Relationship to Context and 4.2.4 Historic Adjacency would be applicable to the project.

A site has Historic Adjacency when any of these are true:

a) At least 50 percent of buildings fully or partially within 200 feet are on the San José Historic Resources Inventory (HRI) or are eligible for HRI listing;
b) The site is within 100 feet of a Designated or Candidate City Landmark or contributor to a district or conservation area; and
c) The site is adjacent to a historic building on the HRI or eligible for HRI listing

Buildings 14, 15, and 21 are considered "adjacent" per the 2019 Downtown Design Guidelines and Standards. Buildings 14 and 15 are eligible for listing in the CRHR and as a Candidate City Landmark or City Landmark Structure and Building 21 is a listed Structure of Merit.

Standard 4.2.2 – Massing Relationship to Context. The following discusses the height transition, width transition, and rear transition standards.

Height Transition – New development, 100 feet tall or greater, located adjacent to a historic building that is up to 45 feet in height must step back at least five feet from the front parcel or setback line at a height between 25 to 50 feet.

Analysis: The proposed building would be up to 274 feet tall to the top of the structure and would be located adjacent to historic buildings that are less than 45 feet tall. The proposed building would have a five foot setback from the property line at the lower levels (up to the second floor at the southern section above the driveway entry and up to the third floor at the northern section above the lobby area). The front façade of the upper floors would extend to the property line. As currently proposed, the proposed building design would not meet this standard.

Width Transition – New development located adjacent to a historic building must include gaps in the podium level above the ground floor to divide its street-facing massing into segments of no more than 30 feet wider than the widest part of the historic building. The gap must be five feet minimum in width and depth.

Analysis: The building widths along both sides of South Fourth Street range from approximately 25 feet to 130 feet. The proposed tower divides floors three to 23 into two sections with a 10-foot wide gap. The street-facing massing is divided into approximately 32-foot and 92-foot sections which are consistent with the existing widths. Therefore, the design would be compatible with this standard.

Rear Transition – New development, 100 feet tall or greater, located adjacent to a historic building 45 feet tall or short must maintain a transitional height of 70 feet or less within the first 20 feet from

the property line.

Analysis: As mentioned previously, the proposed building would be up to 274 feet tall to the top of the structure and there are historic buildings located along the rear of the property line. The project would be 26 feet and six inches above-grade at the rear property line and the upper floors (floors three to 23) would be setback 14 feet and five inches from the property line (above the podium level). The project would provide a transitional height of 26 feet which is lower than the identified 70 foot transitional height and would be within 14 feet and five inches from the property line which is inconsistent with the 20 foot setback. The proposed building should be designed to be 70 feet in height and 20 feet from the rear property line. The proposed building would not be consistent with this standard.

***Standard 4.2.4 – Historic Adjacency*.** The massing, façade, elements, and ground floor standards are discussed below.

Massing

a) Relate *Podium Level*[15] building massing to the scale of *Historic Context*[16] buildings.

Analysis: The proposed building podium would be 26 feet and six inches tall at the rear that provides a transition in massing between the proposed building and the adjacent historic buildings. The side elevations are broken into sections due to the footprint change to an "H" above the third floor. Although the building does not step back to provide a podium level as described in the 2019 Design Guidelines and Standards, the base is compatible to the adjacent buildings. The proposed building design is consistent with this Standard.

b) Design buildings with rectilinear rather than curved and diagonal forms.

Analysis: The proposed building design is consistent with this Standard.

c) Use cornice articulation at the *Podium Level* at a height comparable to the heights of *Historic Context* buildings.

Analysis: There is a cornice-like band located above the second floor which would align with the adjacent roof eaves. The use of metal awnings at the front façade would provide a comparable height to the adjacent ground floors. The proposed building design is consistent with this Standard.

d) Use *Streetwall* continuity with *Historic Context* buildings.

Analysis: The historic context buildings on South Third Street are set back approximately 15 feet from the sidewalk while the historic context building on South Fourth Street is set back approximately 75 feet. The proposed building design is set back five feet at the lower floors and is not compatible with this Standard.

[15] The podium level is below 70 feet in height.
[16] The building(s) that cause the proposed building to have historic adjacency are the proposed building's historic context.

Façade

e) Use articulation that creates façade divisions with widths similar to *Historic Context* buildings on the same side of the street.

Analysis: The building façades are articulated by setbacks and projections similar to the historic context buildings. The proposed divisions on the front façade is wider than the historic context building on the same side of the block but compatible with the existing widths of the historic and surrounding buildings on the block. The proposed building design is consistent with this Standard.

f) Do not simulate historic architecture to achieve these guidelines.

Analysis: The proposed building does not simulate historic architecture. The proposed building design is consistent with this Standard.

g) Place windows on façades visible from the windows of the adjacent *Historic Context* buildings.

Analysis: The proposed design would have residential-scaled windows on all exterior façades. The first two floors of the rear and west elevations are adjacent to the historic context buildings do not have any openings since the parking garage and loading spaces would be located in that area of the building. The proposed building design is not consistent with this Standard.

Elements

h) Use some building materials that respond to *Historic Context* buildings.

Analysis: The nearby historic resources use stucco, wood cladding, and shingles on the exterior. The proposed building would use cast concrete panels, metal panels, smooth plaster, stone cladding, and glazing. The tower would be primarily stucco with concrete panels consistent with many of the surrounding historic context buildings. The proposed building would be consistent with this Standard.

i) The new materials should be compatible with historic materials in scale, proportion, design, finish, texture, and durability.

Analysis: The proposed building materials would be consistent with the scale, proportion, design, finish, texture, and durability of materials in the area. The proposed building design is consistent with this Standard.

Ground Floor

j) Space pedestrian entries at similar distance *Historic Context* building entries.

Analysis: This Standard is not applicable. Pedestrian entries are located within each building, as they are detached residences and smaller apartment buildings.

k) Create a ground floor with a similar floor to ceiling height as nearby *Historic Context* buildings.

Analysis: The nearby historic buildings are single- or multi-family residential buildings of lower heights. The project design would include awnings and a clearly defined podium level which would bring the ground floor height to the pedestrian scale. The proposed building design is consistent with this Standard.

The proposed project is not compatible with the historic context buildings due to height transition, width transition, rear transition, building setback, and proposed window placement.

For a project to cause a substantial adverse change in the significance of a historical resource, it must demolish or materially alter in an adverse manner those physical characteristics that convey the resources' historic significance and accounts for its identification as a City Landmark Structure, Candidate City Landmark, or Landmark District. The project would not comply with the lot patterns and massing elements of the 2004 Historic Guidelines, and would not be consistent with Standard 4.2.2 (a) Height Transition, Standard 4.2.2 (c) Rear Transition, Standard 4.2.4 (d) streetwall continuity, and Standard 4.2.4 Standard (g) window placement under the 2019 Downtown Design and Standards. While not in full compliance with the applicable 2004 and 2019 guidelines and standards, on balance the project was found to be in substantial compliance. As a result, the proposed project would not impact the integrity of the adjacent historic resources and the resources would continue to convey their significance. Therefore, the Historic Resources Evaluation prepared by *TreanorHL* concluded that the proposed project would have a less than significant impact on historical resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

Vibration Impacts Resulting from Project Construction

As noted above, for a project to cause a substantial adverse change in the significance of the identified historic resources near the project, it must demolish or materially alter in an adverse manner those physical characteristics that convey the resources' historic significance and accounts for their identification as San José Historic Landmarks (or candidate landmarks), or eligibility for listing on the CRHR.

Based on the Noise and Vibration prepared for the site (refer to Appendix E of this document), construction of the proposed project would have the potential to generate vibration levels of 0.08 in/sec PPV or more at three historic buildings within 50 feet of the project site. Buildings 14 and 15 are listed in the City's Historic Resources Inventory as Eligible for CRHR and/or NRHP and as a Candidate City Landmark or City Landmark Structure. Additionally, the Building 12, located at 141 East William Street, was determined to be potentially eligible for listing under CRHR and as a City Landmark Structure.

As discussed in *Section 3.4 Noise and Vibration* and Appendix E of this document, with implementation of Mitigation Measures NOI-2.1 to NOI-2.3 and the Standard Permit Conditions, groundborne vibration impacts associated with project construction would be less than significant. **[Same as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

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

General Plan 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. A literature search was completed for the project which identified the site as having low to moderate potential for Native American resources and high potential for historic-era archaeological resources.

Consistent with the Downtown Strategy 2040 FEIR, the following Standard Permit Conditions shall be implemented by the project to reduce and avoid impacts to as yet unidentified archaeological resources.

Standard Permit Conditions:

The project applicant shall implement the following measures during construction:

- **Subsurface Cultural Resources.** 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 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.

- **Human Remains.** 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 conditions 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:

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

With implementation of these Standard Permit Conditions, 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 any human remains, including those interred outside of dedicated cemeteries?

The project would be required to follow procedures according to the California Health and Safety Code and Public Resources Code if any human remains are found during field investigations (refer to Standard Permit Conditions above). As a result, any significant impacts to human remains would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.2.2.2 *Cumulative Impacts*

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

The geographic study area is the project site and surrounding area (within 1,000 feet of the project site).

Historic Structures

As mentioned previously, none of the buildings on the project site are eligible for listing under the NRHP, CRHR, or as a Candidate City Landmark. While the single-family residence located at 459 South Fourth Street is listed as a Structure of Merit, Structures of Merit do not qualify as historical resources under CEQA. Therefore, the loss of these buildings would not be cumulatively considerable. **[New Less Than Significant Cumulative Impact (Cumulative Significant Unavoidable Impact)]**

Subsurface Resources

With implementation of the Standard Permit Condition, impacts to subsurface resources would be less than significant. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not a have cumulatively considerable impact on subsurface archaeological resources. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.3 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment prepared by *Partner Engineering and Science, Inc.* in August 2019. A copy of this report is included as Appendix D of this document.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

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, commonly known as Superfund, and the Resource Conservation and Recovery Act. 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. 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.

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).[17]

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

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 guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States 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, CCR Title 8, Section 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.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

General Plan Policies - Hazards and Hazardous Materials	
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials

[17] CalEPA. "Cortese List Data Resources." Accessed June 11, 2020. https://calepa.ca.gov/sitecleanup/corteselist.

General Plan Policies - Hazards and Hazardous Materials	
	and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
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.
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.
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.
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.
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.
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.

General Plan Policies - Hazards and Hazardous Materials	
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.
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

3.3.1.2 *Existing Conditions*

The project site is developed with two apartment buildings and a single-family residence. Groundwater on-site is estimated at a depth of approximately 11 to 37 feet bgs. Groundwater in the project area flows in a northeasterly direction.

3.3.1.3 *Project Site and Adjacent Land Use History*

In the 1860s, the project block was developed with residential structures which were replaced in the late 19th and early-to-mid 20th century by light industrial and residential development. By 1868, the Southern Pacific Railroad was constructed along Fourth Street, adjacent to the project site. The Southern Pacific Railroad resulted in an intensification of industrial development in the area. During the second half of the 19th century, a number of breweries were constructed in the area. The earliest breweries in San José were established in the 1850s by German immigrants. The breweries were surrounded by little cottages which provided housing for the workers. The first brewery, Eagle Brewery, was located along Market Street. In 1870, a brewery (owned by Phillip Doerr) was constructed on the north side of William Street between Third and Fourth Street and was surrounded by small cottages which housed the workers. Based on the 1891 Sanborn Map, one- to two-story cottages with full-width front porches were located along South Fourth Street. The single-family residence at 459 South Fourth Street was constructed circa 1900. During the early 20th century, the project block was constructed with single-family and multi-family residences. The three-unit residence located at 465-469 South fourth Street was constructed in 1939. The apartment building located at 475 South Fourth Street was developed in 1960.

3.3.1.4 *On-Site Sources of Contamination*

The project site is not listed on any regulatory database. Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs and LBP may be present in the buildings.

3.3.1.5 *Off-Site Sources of Contamination*

The Phase I Environmental Site Assessment (ESA) identified 43 off-site facilities with a 0.25-mile radius of the project site. Of the 43 off-site facilities, 11 are located upgradient to the site. Based on the Phase I ESA, none of the 11 sites have had releases. The remaining 32 off-site facilities are located either cross gradient or downgradient to the site. None of the off-site facilities were determined to represent a significant environmental concern for the project site because 1) no release has occurred, 2) the distance of the facility from the project site and/or the location of the release relative to groundwater flow, 3) the site has no reported violations, 4) the site has been granted a "No Further Action" or "Case Closed" by the appropriate regulatory agency, or 5) most recent groundwater sampling did not identify any contamination.

3.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Create a significant hazard to the public or the environment through the 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?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
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.

3.3.2.1 *Project Impacts*

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

While the Phase I ESA did not identify any evidence of significant environmental concerns related to past or present activities on-site and off-site, a portion of the site may have been occupied by a brewery cellar processing area and kiln. In addition, a potential heating oil tank may have been present at the adjacent property near the 475 South Fourth Street boundary. Construction activities on-site has the potential to expose construction workers and/or nearby residences to soil, soil vapor, and groundwater contamination.

Impact HAZ-1: A portion of the site may have been occupied by a brewery cellar processing area and kiln and a potential oil heating tank may have been present at the adjacent property near the 475 South Fourth Street boundary. Construction activities associated with the proposed project could potentially expose construction workers and/or nearby residents to soil, soil vapor, and groundwater contamination.

Mitigation Measure

MM HAZ-1.1: A Site Management Plan (SMP) shall be prepared by a qualified environmental professional prior to the issuance of a grading permit to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, soil vapor, and/or groundwater.

At a minimum, the SMP shall include the following:

- Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of Best Management Practices (BMPs)
- Proper disposal procedures of contaminated materials
- Monitoring, reporting, and regulatory oversight notifications
- A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection
- The health and safety plan will also outline proper soil and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction.

The SMP shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

Implementation of Mitigation Measure HAZ-1.1 would reduce potential hazardous materials impacts to construction workers, adjacent uses, and the environment. Any hazardous materials (e.g., any debris or soil containing LBP or coatings) that would be removed from the site during project construction would be properly disposed of appropriately (refer to Standard Permit Conditions below). **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Operation

The proposed project would likely include the use and storage of cleaning supplies and maintenance chemicals in small quantities similar to operation of the existing buildings on-site. The small quantities of cleaning supplies and maintenance chemicals used on-site during project operation would not pose a risk to adjacent land uses. Based on the proposed use of the site, the project would not create a significant hazard to the public or environment from the use, transport, or storage of these chemicals. **[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?

On-Site Contamination

As mentioned in *Section 3.3.1.4*, the project site is not listed in any regulatory database. Since the buildings on-site were constructed prior to 1978, it is reasonable to assume that ACMs and LBP materials are present on-site. 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:

The project applicant shall implement the following conditions:

- Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with state and local laws, to determine the presence of ACMs and/or LBP paint prior to the demolition of on-site building(s).
- Remove all building materials containing LBP during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
- Remove all potentially friable ACMs in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- Retain a registered asbestos abatement contractor 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. Remove materials containing more than one-percent asbestos in accordance with BAAQMD requirements and notifications.
- Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.
    - Prior to commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing LBP.
    - During demolition activities, remove all building materials containing LBP in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Dispose any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

With implementation of the Standard Permit Conditions, the project would have a less than significant impact from ACMs and LBP. **[Same Impact as Approved Project (Less than Significant Impact)]**

Off-Site Contamination

As mentioned previously, the project site is not listed in any regulatory database and none of the off-site facilities within 0.5-mile radius of the site were determined to represent a significant environmental concern. Therefore, implementation of the project would not exacerbate an existing

soil or groundwater contamination source and would not impact persons or properties off-site. **[Same Impact as Approved Project (Less than Significant Impact)]**

Dewatering During Construction

The project site would be excavated to a depth of approximately 16 feet bgs for the below-grade parking garage and would likely encounter groundwater during excavation activities on-site. Any groundwater encountered during excavation activities would need to be removed from the site and disposed. Water discharge produced from construction dewatering to the sanitary sewer is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. As mentioned in *Section 4.7 Geology and Soils* of the Initial Study, the project shall comply with the recommendations of an approved geotechnical investigation. As a result, dewatering during construction would not create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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?

The nearest schools to the project site are Notre Dame High School and SJSU, located approximately 290 feet southwest and 400 feet northeast of the project site, respectively. The project would construct a residential tower and would not emit or handle any hazardous materials. In addition, the project would not use or store hazardous materials in sufficient quantities to pose a health risk to any nearby school. Implementation of the Standard Permit Conditions to reduce impacts from ACMs and LBP would ensure that potentially contaminated materials are properly handled to avoid chemical releases into the environment. Therefore, the proposed project would not present a risk to the sensitive receptor on any nearby school. **[Same Impact as 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, would it create a significant hazard to the public or the environment?

The proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.[18] Therefore, the project would not create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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?

[18] CalEPA. "Cortese List Data Resources." Accessed June 11, 2020. https://calepa.ca.gov/sitecleanup/corteselist.

The Norman Y. Mineta San José International Airport is located approximately 2.3 miles northwest of the project site. The project site is not located within the Norman Y. Mineta San José International Airport CLUP-defined safety zone or the Airport Influence Area (AIA). For the project site, any structure exceeding 69 feet in height above grade would require submittal to the FAA for airspace safety review. As the proposed project would have a maximum height of 250 feet, notification to the FAA is required to determine the potential for the project to create an aviation hazard.

The project would be required to follow all applicable General Plan policies (including General Plan Policy TR-14.2), regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport, as well as the Standard Permit Condition below.

Standard Permit Condition:

- **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

Implementation of the Standard Permit Condition would ensure that the project does not result in a safety hazard or excessive noise exposure 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 would be constructed in accordance with current building and fire codes and would be required to be maintained 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 project site is located within an urbanized area and it is not adjacent to any wildland areas that would be susceptible to wildland fires. Implementation of the proposed project would not expose any people or structures to risk from wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.3.2.2 *Cumulative Impacts*

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

The geographic area for hazards and hazardous materials is defined as locations within 1,000 feet of the project site. The project site is not listed in any regulatory database. Since the buildings on-site were constructed in 1950 and 1969, it is reasonable to assume that ACMs and LBP materials may be present on-site. The project would be required to implement the identified Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or LBP and Mitigation Measure HAZ-1.1 to reduce construction workers' and adjacent uses exposure to potential contaminated soil/and or groundwater during construction. As a result, the project would not result in a cumulatively considerable contribution to cumulative hazards and hazardous materials impacts.

3.4 NOISE

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

3.4.1 Environmental Setting

3.4.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[19] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

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

3.4.1.2 *Regulatory Framework*

State

California Building Standards Code

The 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 L_{dn}/CNEL in any habitable room. 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, or industrial source.

Regional

The Comprehensive Land Use Plan adopted by the Santa Clara County Airport Land Use Commission contains standards for projects within the vicinity of San José International Airport, which are relevant to this project:

Santa Clara County Airport Land Use Commission Comprehensive Land Use Plan Policies	
N-3	Noise impacts shall be evaluated according to the Aircraft Noise Contours presented on Figure 5 of the Land Use Plan (2022 Aircraft Noise Contours).
N-4	No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed use residential project or a multi-unit residential project. (Sound wall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.)

City of San José

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 3.4-1 below.

Table 3.4-1: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	**Exterior DNL Value in Decibels**					
	55	**60**	**65**	**70**	**75**	**80**
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						

Table 3.4-1: Land Use Compatibility Guidelines for Community Noise in San José						
Land Use Category	**Exterior DNL Value in Decibels**					
	55	**60**	**65**	**70**	**75**	**80**
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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

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

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

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

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

General Plan Policies – Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of

General Plan Policies – Noise and Vibration	
EC-1.1 Continued	mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-1.9	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.
EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
EC-2.1	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

General Plan Policies – Noise and Vibration	
EC-2.1	sensitive uses would not exceed these guidelines.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 inch/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 inch/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.[20]

The Municipal Code limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval.

Chapter 20.40.500 of the Municipal Code prohibits outdoor activity, including loading, sweeping, landscaping or maintenance that occurs within 150 feet of any residentially zoned property between the hours of 12:00 AM (midnight) and 6:00 AM.

3.4.1.3 *Existing Conditions*

The project site is located on the west side of South Fourth Street between East San Salvador Street and East William Street in San José, California. The project site is located in proximity to SJSU, approximately 400 feet southwest. Adjacent to the property to the north, south, and west are existing residential and/or commercial land uses. There are residences and commercial uses on the east side of South Fourth Street. I-280 is located approximately 1,100 feet to the south of the project site.

A noise monitoring survey was performed in the vicinity of the project site from July 21, 2020 to July 23, 2020 to document existing noise levels in the project area and update noise measurements previously completed in September 2015 for the South Fourth Street Mixed-Use project site. The monitoring survey included two short-term noise measurements (ST-1 and ST-2) and one long-term noise measurements (LT-1) as shown below in Table 3.4-2.[21] The noise environment at the site and

[20] The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.
[21] The long-term noise measurement was monitored at the same location as the 2015 survey to compare change in noise levels in the site vicinity over the past five years.

in the surrounding areas results primarily from vehicular traffic along South Fourth Street, East Salvador Street, and East William Street. Traffic noise from I-280 and occasional overhead aircraft associated with the Norman Y. Mineta San José International Airport also affect the noise environment in the vicinity of the project site.

LT-1 was made at the rear of 405 South Fourth Street on the shared property line with 439 South Fourth Street, approximately 50 feet from the centerline of South Fourth Street. The 2020 noise levels at LT-1 have an hourly average daytime noise level of 64 dBA (ranging from 61 to 70 dBA L_{eq} during the day) and a nighttime noise level of 58 dBA (ranging from 54 to 62 dBA L_{eq} at night). The day-night average noise level at LT-1 was 67 dBA DNL. The noise levels at the same location in the September 2015 noise measurement survey had an hourly average daytime noise level of 66 dBA (ranging from 63 to 69 dBA L_{eq} during the day) and a nighttime noise level of 58 dBA (ranging from 52 to 64 dBA L_{eq} at night). The day-night average noise level at this location in 2015 was 68 dBA DNL.

Between the August 2020 and September 2015 noise measurement surveys, a one dBA reduction measured in DNL and a two dBA reduction in average daytime noise levels was observed. The change in noise levels is presumed to result from a reduction in traffic trips as a result of COVID-19. While new noise measurements were taken are were shown to be lower than previous data, the previous data was used for the analysis. This analysis conservatively assumes that noise levels at LT-1 would be equal to or up to one dBA higher than the 2015 measurements under non-pandemic conditions. Therefore, it is assumed that LT-1 would have a noise level of up to 69 dBA DNL. Table 3.4-2 below summarizes the acoustical locations and measurements. The noise measurement locations is shown in
Figure 3.4-1.

Table 3.4-2: Existing Long-Term Noise Measurements

Measurement	Location	L_{max}	$L_{(01)}$	$L_{(10)}$	$L_{(eq)}$	$L_{(50)}$	$L_{(90)}$	DNL	
								Measured Level	Non-Pandemic Level
ST-1	Five feet above-grade, approximately 50 feet from the centerline of South Fourth Street.	75	72	66	62	58	49	65	67
ST-2	16 feet above-grade, approximately 50 feet from the centerline of South Fourth Street.	78	72	68	64	60	51	67	69
LT-1	12 feet above-grade in front of façade of 405 South Fourth Street building, approximately 50 feet west of the centerline of South Fourth Street.	77	73	68	64	60	52	67	69

NOISE MEASUREMENT LOCATIONS | FIGURE 3.4-1

Sensitive Receptors

Residences are located adjacent to the project's northern, western, and southern boundaries. The nearest sensitive receptors are the residences located approximately five feet south and 20 feet north of the site. There are additional residences located at farther distances.

3.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

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

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed 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 three dBA noise level increase is considered the minimum increase that is perceptible to the human ear.

Typically, project-generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the addition of project noise, a noise level increase of five 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 five 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 three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five 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 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

3.4.2.1 *Project Impacts*

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

Operational Noise Impacts

Project-Generated Traffic Noise

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. The existing ambient noise level at the residences surrounding the project site is 64 dBA DNL or greater; therefore, a significant impact would occur if project-generated traffic would permanently increase noise levels by three dBA DNL.

A Local Transportation Analysis was prepared by *Hexagon Transportation Consultants, Inc.* (refer to Appendix H of the SEIR) which included a study of the peak hour traffic turning movements for four intersections (South Third Street/East San Salvador Street, South Third Street/East William Street, South Fourth Street/San Salvador Street, and South Fourth Street/East William Street) in the project vicinity. The existing plus project traffic volumes were compared to existing volumes to determine the project's contribution to the permanent noise level increase. A traffic noise increase of less than one dBA was estimated for each roadway segment and, as a result, the proposed project would have a less than significant operational traffic noise impact. **[Less Impact than Approved Project/Less Than Significant Impact (Significant Unavoidable Impact)]**

Mechanical Equipment

The proposed project would include various mechanical equipment such as heating, ventilation, and air-conditioning (HVAC), as well as emergency generators, pumps, and condensers. Based on the site plan provided by the applicant, a fire pump room, electrical room, a water utility and stormwater treatment room would be located in the basement. Transformer and trash collection rooms are proposed the ground floor and the electrical, boiler, and generator rooms are proposed on the lower roof. At the time the noise and vibration assessment was completed, specific details such as manufacturer's noise data and quantity and size for such equipment was not available.

Most of the equipment operating on a daily basis would be located within the parking garage or on the rooftop. These types of equipment would have noise levels ranging from 56 to 66 dBA at a distance of three feet. The ground-level equipment would receive a minimum noise level reduction of 20 dBA from the building façades. Equipment located within rooms on the rooftop would be further reduced due to the elevation of the noise source. Therefore, mechanical equipment noise due to daily operations would be below 55 dBA DNL at the nearby residential property lines.

A 1,000 kW emergency diesel generator is proposed in the lower roof generator room. Generators of this size can produce noise levels of up to 90 dBA at 23 feet if a weather enclosure is included or up to 80 dBA at 23 feet if a sound enclosure is included. The generators would be operational during periods of emergency and for maintenance and testing purposes. During the maintenance and testing periods, the generator would run continuously for two hours. At a distance of 23 feet, the day-night average noise level would be 79 dBA DNL with a weather enclosure or 69 dBA DNL with a sound enclosure. The proposed generator room would be located on the lower roof, approximately 200 feet from the nearest residential land uses. At a distance of 200 feet and assuming a minimum reduction of 10 dBA from the intervening building, nearby sensitive receptors would be exposed to noise levels of up to 50 dBA DNL with a weather enclosure and up to 40 dBA DNL with a sound enclosure. As a result, the emergency generator would not exceed the City's 55 dBA DNL threshold at the nearest residential property lines.

The proposed project would be required to implement the following Standard Permit Condition to ensure the project maintains a noise level of 55 dBA or less at the shared property lines of nearby noise-sensitive land uses.

Standard Permit Condition:

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

With implementation of the Standard Permit Condition, the project would have a less than significant operational noise impact from mechanical equipment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time. The project would be constructed in approximately 24 months with construction beginning in June 2021.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. General Plan Policy EC-1.7 requires that all construction operations within the City use best available noise suppression devices and techniques and limit construction hours near residential uses per the Municipal Code allowable hours. Additionally, the City considers significant construction noise impacts to occur if a project is located within 500 feet of residential uses or 200 feet of commercial or office uses and 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.

Construction of the proposed project would include demolition of existing structures and pavement, excavation for the below-grade parking garage and to lay foundations, building erection, paving, and landscaping. Truck trips would be generated from hauling excavated materials and construction materials. While augercast piles would be drilled and poured, impact pile driving is not proposed.

At a distance of 50 feet from the noise source, construction equipment would typically range from 85 to 95 dBA L_{max}. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain can provide an additional five to 10 dBA noise reduction at distant receptors.

Table 3.4-3 below lists the phases of construction and the estimated construction noise levels at nearby land uses. For purposes of this analysis, the worst-case scenario was assumed, which would include each piece of equipment per phase operating simultaneously.

Table 3.4-3: Estimated Construction Noise Levels at Nearby Land Uses

Phase of Construction	Calculated Hourly Average Noise Levels, L_{eq} (dBA)			
	Residential & Commercial – South (70 feet)	Residential & Commercial – East (150 feet)	Residential – North (70 feet)	Residential & Commercial – West (65 feet)
Demolition/Site Preparation	84	77	84	84
Shoring Grading/Excavation	83	76	83	84
Below Slab Utilities	78	71	78	79
Foundation/Structure	81	74	81	81
Building-Exterior	81	74	81	81
Building-Interior/Architectural Coating	77	70	77	78

Note: Please note the distances listed above represents the approximate distance from the center of the project site to the nearest property line of the adjacent uses. This distance is used to determine the average noise level throughout the course of construction as it occurs throughout the site. Shielding due to intervening buildings or other barriers is not assumed in this study.

Since project construction would last for a period of more than 12 months and is located within 500 feet of existing sensitive land uses, construction of the proposed project would result in a noise impact.

Impact NOI-1: Existing noise-sensitive land uses would be exposed to construction noise levels in excess of the City's threshold for a period of more than one year.

Mitigation Measures

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 to the Director of Planning, Building and Code Enforcement or Director's Designee. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign.

As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- In accordance with General Plan Policy EC-1.7, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers around the perimeter of the construction site. The barrier can be comprised of fencing, blankets, or a combination of both. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Strictly prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Use 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors closest to the site during all project construction.
- If necessary, erect a temporary noise control blanket along building façades facing the construction sites.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written

schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

With implementation of the Mitigation Measure NOI-1.1, the project's impact from construction generated noise would be less than significant. **[Same as Approved Project (Less Than Significant Impact)]**

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

Construction Vibration

General Plan Policy EC-2.3 establishes a continuous vibration limit of 0.08 inch/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a continuous vibration limit of 0.20 inch/sec PPV to minimize damage at buildings of conventional construction. As described in *Section 3.2 Cultural Resources* of this document, Buildings 12, 14, and 15[22] are eligible for listing under the CRHR and/or NRHP and/or as a Candidate City Landmark. The remaining buildings are either eligible as a Structure of Merit or not eligible as historic resources. Refer to Figure 3.4-2 below for building locations.

As mentioned previously, augercast piles would be drilled and poured. Impact pile driving is not proposed. The historic buildings along the western property lines (Buildings 14 and 15) are approximately 30 and 40 feet from the project site, respectively. In addition, another historic building (Building 12) is approximately 50 feet from the project site. Table 3.4-4 below provides a summary of construction equipment vibration levels at nearby historic buildings. Refer to the figure below for the building locations.

[22] For the purposes of this analysis, Buildings 8, 11, and 12 from the noise report is referenced as Buildings 12, 14, and 15 to be consistent with the historic report.

Table 3.4-4: Impacts to Historic Buildings Surrounding the Project Site				
Equipment		**Vibration Levels Nearby (in/sec PPV)**		
		PPV at 50 feet Building 12	**PPV at 30 feet Building 14**	**PPV at 40 feet Building 15**
Clam shovel drop		**0.09**	**0.17**	**0.12**
Hydromill	soil	0.004	0.01	0.005
	rock	0.008	0.01	0.01
Vibratory Roller		**0.10**	**0.17**	**0.13**
Hoe Ram		0.04	0.07	0.05
Large bulldozer		0.04	0.07	0.05
Caisson drilling		0.04	0.07	0.05
Loaded trucks		0.04	0.06	0.05
Jackhammer		0.02	0.03	0.02
Small bulldozer		0.001	0.002	0.002
Note: Buildings 8, 11, and 12 from the noise report is referenced as Buildings 12, 14, and 15 consistent with the historic report.				

Figure 3.4-2: Properties Surveyed Within 200 Feet

As shown in Table 3.4-4 above, the historic buildings located within 50 feet of the project site would be exposed to vibration levels ranging from 0.001 to 0.17 in/sec PPV which exceeds the 0.08 in/sec PPV threshold for historic buildings. Table 3.4-5 below provides a summary of construction equipment vibration levels at nearby conventional buildings as well as vibration levels generated by typical construction equipment at a distance of 25 feet.

Table 3.4-5: Impacts to Nearby Buildings Surrounding the Project Site

Equipment		PPV at 25 feet	Vibration Levels Nearby (in/sec PPV)			
			PPV at 95 feet East Building	PPV at 5 feet South Building	PPV at 10 feet North Building	PPV 45 feet West Building
Clam shovel drop		0.202	0.05	**1.2**	**0.6**	0.11
Hydromill	soil	0.008	0.002	0.02	0.004	0.002
	rock	0.017	0.004	0.05	0.01	0.004
Vibratory Roller		0.210	0.05	**1.2**	**0.6**	0.11
Hoe Ram		0.089	0.02	**0.52**	**0.24**	0.05
Large bulldozer		0.089	0.02	**0.52**	**0.24**	0.05
Caisson drilling		0.089	0.02	**0.52**	**0.24**	0.05
Loaded trucks		0.076	0.02	**0.45**	**0.21**	0.04
Jackhammer		0.035	0.01	**0.21**	0.10	0.02
Small bulldozer		0.003	0.001	0.02	0.01	0.002

At a distance of 25 feet, vibratory rollers and clam shovel drops would have the potential to produce vibration levels of 0.20 in/sec PPV or more at buildings of conventional construction located within 25 feet of the project site (i.e., adjacent buildings to the north and south). The nearest building located south of the site would be exposed to vibration levels ranging from 0.02 to 1.2 in/sec PPV which exceeds the 0.20 in/sec PPV threshold for conventional buildings. Additionally, the nearest building to the north would be exposed to vibration levels ranging from 0.004 to 0.24 in/sec PPV. Construction-generated vibration levels would fall below the 0.2 in/sec PPV threshold at other surrounding conventional buildings located 30 feet or more from the project site. Neither cosmetic, minor, or major damage would occur at conventional buildings located 30 feet or more from the project site.

Construction of the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historical buildings within 50 feet of the project site and 0.2 in/sec PPV or more at buildings of conventional construction located within 25 feet of the project site. By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby residences and businesses, perceptible vibration can be kept to a minimum. Consistent with the Downtown Strategy 2040 FEIR and in addition to Mitigation Measure NOI-1.1, the following measures shall be implemented to reduce vibration impacts from construction activities.

Standard Permit Conditions:

- Submit a construction vibration monitoring plan to document conditions prior to, during, and after 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 shall include, but not be limited to, the following measures:
    - A description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
    - A list of all heavy construction equipment that are known to produce high vibration levels (e.g., jackhammers, hoe rams, clam shovel drops, large bulldozers, caisson drillings, loaded trucks, and vibratory rollers, etc.) submitted to the Director of Planning, Building and Code Enforcement or the Director's designee by the project contractor for review and approval prior to issuance of demolition or grading permits. This plan shall be used to define the level of effort required for continuous vibration monitoring. Demolition, earth-moving, and ground impacting operations shall be phased so that it does not occur during the same time period.
    - Where possible, the use of heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
    - 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. Specifically:
        - Vibration limits shall be applied to vibration-sensitive structures located within 75 feet of other construction activities identified as sources of high vibration levels.
        - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of construction activities identified as sources of high vibration levels and each historic structure within 75 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.
- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.

- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

In addition to the Standard Permit Conditions listed above, the following mitigation measures would be implemented to reduce groundborne vibration impacts to historic buildings.

Impact NOI-2: Project construction would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 50 feet of the project site.

Mitigation Measures

MM NOI-2.1: Prior to commencement of any construction activities, including any ground disturbing activities, a qualified historic architect shall undertake an existing visual conditions study of the nearby historic resources within 50 feet of the project site. The purpose of the study would be to establish the baseline conditions of the buildings prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be submitted, reviewed and approved by Director of Planning, Building and Code Enforcement or Director's Designee and the City of San José's Historic Preservation Officer or equivalent.

MM NOI-2.2: Prior to commencement of any construction activities, including any ground disturbing activities, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect nearby historic resources (within 50 feet of the project site) from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).

The HRRP shall be prepared by a qualified Historic Architect and reviewed and approved by the Historic Preservation Officer or equivalent of the City of San José Department of Planning, Building and Code Enforcement prior to demolition and Public Works clearance, including any ground-disturbing work. The project applicant shall ensure the construction contractor follows the HRRP while working near these historic resources. At a minimum, the plan shall include:

- Guidelines for operation of construction equipment adjacent to historical resources;

- Requirements for monitoring and documenting compliance with the plan; and
- Education/training of construction workers about the significance of the historical resources around which they would be working.

MM NOI-2.3: The Historic Architect shall establish a "Monitoring Team" comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. During the demolition and construction phases, the Monitoring Team shall make periodic site visits to monitor the condition of the property, including monitoring of any instruments such as crack gauges, if necessary, or reviewing vibration monitoring required by other construction monitoring processes required under the City's permit processes. In addition, the Monitoring Team shall prepare a site visit report documenting all site visits. The Monitoring Team shall submit the site visit reports and documents to the City's Historic Preservation Officer on a quarterly basis (no later than one week after each reporting period). The Director of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement may request any additional number of site visits at their discretion.

If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during construction, a representative of the Monitoring Team shall inform the project applicant (or the applicant's designated representative responsible for construction activities), the Director of Planning, Building and Code Enforcement or the Director's designee, and the Historic Preservation Officer of the potential impacts immediately. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger historic resources. In the event of damage to a nearby historic resource during construction, the project applicant shall ensure that repair work is performed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status. The Monitoring Report shall also include, but is not limited to, the following:

- Summary of the demolition and construction progress;
- Identification of substantial adverse impacts related to construction activities;
- Problems and potential impacts to the historical resources and adjacent buildings during construction activities;
- Recommendations to avoid any potential impacts;
- Actions taken by the project applicant in response to the problem;

- Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and
- Inclusion of photographs to explain and illustrate progress.
- In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the Director of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any Certificate of Occupancy (temporary or final).

With implementation of the Standard Permit Conditions identified above and Mitigation Measures NOI-2.1 to NOI-2.3, groundborne vibration impacts associated with project-construction would be less than significant. **[Same 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?

The Norman Y. Mineta San José International Airport is located approximately 2.3 miles northwest of the project site. The site lies outside the 60 dBA CNEL 2037 noise contour which means that future exterior noise levels due to aircraft from Norman Y. Mineta San José International Airport would not exceed 60 dBA CNEL/DNL. The required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts (Policy EC-1.11); therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. **[Same Impact as Approved Project (Less than Significant Impact)]**

3.4.2.2 *Non-CEQA Effects*

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

City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review.

Future Exterior Noise Impacts

The future noise environment at the project site would continue to result primarily from traffic along South Fourth Street and the surrounding roadways. Future noise levels in the project vicinity are estimated to increase by one dBA by 2035.[23] Per General Plan Policy EC-1.1, the City's acceptable exterior noise level is 60 dBA DNL or less for residential and most noise-sensitive land uses except in the environs of the Norman Y. Mineta San José International Airport and the downtown. Table 3.4-6 below provides a summary of the exterior noise levels at the eastern, southern, western, and northern building façades.

Table 3.4-6: Exterior Noise Levels at Building Façades

Façade	Building Floor Levels					
	1	**2**	**3**	**4-6**	**7-11**	**12-20**
Eastern	68	70	71	71	70	69
Southern	62	64	65	68	68	67
Western	>60	>60	64	67	67	67
Northern	62	62	60	>60	>60	>60

Three courtyards are proposed on the third floor, along the northern, eastern, and southern façades, as well as a roof deck. The courtyards would be shielded by the surrounding buildings and the proposed building and would be exposed to a DNL of less than 60 dBA. Additionally, due to the elevation of the roof relative to the surrounding roadways, the roof deck would be acoustically shielded by the building edge and would be exposed to a DNL of less than 60 dBA.

As a result, the proposed project would be consistent with General Plan Policy EC-1.1.

Future Interior Noise Impacts

The City of San José requires that interior noise levels be maintained at 45 dBA DNL or less for residences. As shown in the table above, the future residences would be exposed to noise levels up to 71 dBA DNL. Interior noise levels would vary depending upon the design of the building (relative window area to wall area) and the selected construction materials and methods. Standard residential construction provides approximately 12 to 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. For the proposed project, the interior noise levels would be up to 51 dBA DNL (with standard construction and windows closed), which exceeds the City's 45 dBA DNL interior noise threshold.

In accordance with General Plan Policy EC-1.1, the proposed project will be required, as a Condition of Project Approval, to implement the following measures.

[23] Illingworth and Rodkin, Inc. "Envision San José 2040 General Plan Comprehensive Update Environmental Noise Assessment." December 2010.

Condition of Project Approval:

- Dwelling units along the eastern building façade facing South Fourth Street and upper floor residences along the southern and western façades shall require windows and doors with a minimum STC rating of 28 to 32 to meet the interior noise threshold of 45 dBA DNL.
- For lower floor residences along the southern and western façades, the windows and doors shall have a minimum STC rating of 26 to 28.
- Standard construction materials with the incorporation of forced-air mechanical ventilation shall be used for the remainder of the residences.
- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all dwelling units on-site, so windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- A qualified acoustical specialist shall review the final site plan, building elevations, and floor plans prior to construction. The acoustical specialist shall recommend building treatments (e.g., sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc.) to reduce the interior noise levels to 45 dBA DNL or lower. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis shall be submitted to the City along with the building plans prior to the issuance of a building permit.

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

3.4.2.3 *Cumulative Impacts*

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

Construction Noise

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). Project construction and operation may overlap with construction of the South Fourth Street Mixed-Use project (File No. H17-004). Adjacent residences and historic structures within the vicinity of these two developments would be exposed to construction activity from both projects.

The proposed project was determined to have a less than significant project level construction noise impact. Nevertheless, considering the size, construction equipment to be used, location, and construction timeframe of both projects (i.e., assuming construction of both projects would overlap), the receptors within the immediate vicinity could be exposed to a significant cumulative construction noise impact.

Pursuant to CEQA Guidelines Section 15130, an individual project would result in a significant cumulative impact if the project's contribution to the overall cumulative impact is cumulatively

considerable. Section 15130 also states that a project need only mitigate its own contribution to a cumulative impact.

To reduce the individual contributions to the significant cumulative noise impact from construction, both projects would need to implement the following measures[24]:

- Eliminate pile driving and limit the number of drilling days; and
- Comply with the City's allowable construction hours of 7:00 AM to 7:00 PM Monday through Friday; and
- Require the use of a temporary blanket[25] or temporary perimeter barrier, whichever feasible, to shield the noise during all groundwork activity.

As proposed, the project would not drive piles, but would use augercast piles. Augercast piles are drilled and pumped into piles with minimal noise when compared to pile driving. It is assumed that the South Fourth Street Mixed-Use project would use impact pile driving for foundation work. Because the project proposes augercast piles, by design the project complies with the restriction on pile driving and bullet one would not be applicable to the proposed project.

The project does not propose extended construction hours. Furthermore, the limitation of construction hours (bullet two) and acoustical shielding (bullet three) are also already incorporated in Mitigation Measure NOI-1.1. Again, by design and through mitigation requirements, the project would comply with the aforementioned measures. Implementation of Mitigation Measure NOI-1.1 would reduce the project's contribution to the cumulative construction noise impact to less than significant. **[Less Than Significant Impact (Less Than Significant Cumulative Impact)]**

Construction Vibration

As with noise, overlapping project schedules could result in a cumulative vibration impact. With implementation of Mitigation Measures NOI-2.1 to NOI-2.3 and the Standard Permit Conditions, the cumulative vibration impact from the proposed project would not be cumulatively considerable and would be reduced to less than significant. As a result, the proposed project would not a have cumulatively considerable impact on construction vibration. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

[24] Janello, Carrie. Illingworth & Rodkin, Inc. Personal Communication. March 5, 2021.
[25] In some cases, a temporary blanket would not be feasible.

SECTION 4.0 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

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

The project proposes to demolish three existing residential buildings with a total of 16 residential units. The project would intensify the use of the site by constructing a 23-story tower with up to 240 dwelling units consistent with the planned development analyzed within the Downtown Strategy 2040 FEIR. As discussed in *Section 3.19 Utilities and Service Systems* of the Initial Study, expansion of the existing utility infrastructure is not proposed or required. In addition, the site is an infill location within the Downtown Strategy Plan area and would not require new roads to be constructed to access the site. For these reasons, the project would not foster or stimulate substantial economic growth or population growth, or the construction of additional housing in the surrounding environment.

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 project site is currently developed with two apartment buildings and a single-family residence and construct a 23-story tower with up to 240 dwelling units. 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 City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed project would be constructed in compliance with CALGreen requirements, the City's Council Policy 6-32 and the City's Green Building Ordinance. In addition, the project would be constructed consistent with City Council Policy 6-29 and the Regional Water Quality Control Board Municipal Regional Stormwater National Pollution Discharge Elimination System Permit to avoid impacts to waterways. The project site is located in the downtown area which would provide future residents access to existing transportation networks and other downtown services. Therefore, the proposed project would facilitate a more efficient use of resources over the lifetime of the project. The project would not result in significant and irreversible environmental changes to the project site.

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. No significant unavoidable impacts have been identified as a result of the project.

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 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 and Downtown Strategy 2040 Plan of locating high density development on infill sites along transit corridors to foster transit use and the efficiency of urban services and, strengthen downtown as a regional job, entertainment, and cultural destination and as the

symbolic heart of San José. Specifically, provide high density, high-rise housing in the downtown area in excess of 300 units per acre that is accessible to downtown jobs, retail and entertainment and various modes of public transit.

2. Support the growth strategies by increasing the housing base in the downtown in order to reduce the overall amount of vehicle miles traveled by placing housing in proximity to jobs.

3. Advance the principal of "Smart Growth" by replacing low-density housing with surface parking with a new tower that will provide housing units in the Focused Growth area of downtown.

4. Create a high quality, well designed, high-density, high-rise residential development project in the downtown focus area to further the San José 2040 General Plan goal of creating a central identity for San José as well as adding a sense of permanency and stature to the downtown skyline.

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

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

7.3 SIGNIFICANT IMPACTS FROM THE PROJECT

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

- **Air Quality:** Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
- **Cumulative Air Quality:** Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
- **Hazards and Hazardous Materials:** A portion of the site may have been occupied by a brewery cellar processing area and kiln and a potential oil heating tank may have been present at the adjacent property near the 475 South Fourth Street boundary. Construction activities associated with the proposed project could potentially expose construction workers and/or nearby residents to soil, soil vapor, and groundwater contamination. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**
- **Noise:** Existing noise-sensitive land uses would be exposed to construction noise levels in excess of the City's threshold for a period of more than one year. **[Same Impact as Approved Project (Less Than Significant Impact)]**

- **Noise:** Project construction would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 50 feet of the project site. **[Same as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
- **Cumulative Noise:** Considering the size, construction equipment to be used, location, and construction timeframe of both the proposed project and the South Fourth Street Mixed-Use project (i.e., assuming construction of both projects would overlap), the receptors within the immediate vicinity could be exposed to a significant cumulative construction noise impact. **[Less Than Significant Impact (Less Than Significant Cumulative Impact)]**
- **Cumulative Noise:** Overlapping project schedules with the adjacent South Fourth Street Mixed-Use development could result in a cumulative vibration impact. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

7.4 ALTERNATIVES

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project – No Development Alternative
- Reduced Development Alternative

7.4.1 Project Alternatives

7.4.1.1 *Considered & Rejected*

Location Alternative

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[26] The project proposes to construct a 23-story residential tower with up to 240 dwelling units on an approximately 0.45-acre site in the downtown area.

It is reasonable to assume that there are other sites available within the downtown area that could be redeveloped to support the proposed residential development. As there are historic buildings throughout the downtown, it is unlikely that a new location would avoid impacts to historic buildings. All construction-related impacts would remain the same if sensitive receptors were located within 1,000 feet of the site. This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area that would avoid the construction impacts.

7.4.1.2 *No-Project – No Development Alternative*

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

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

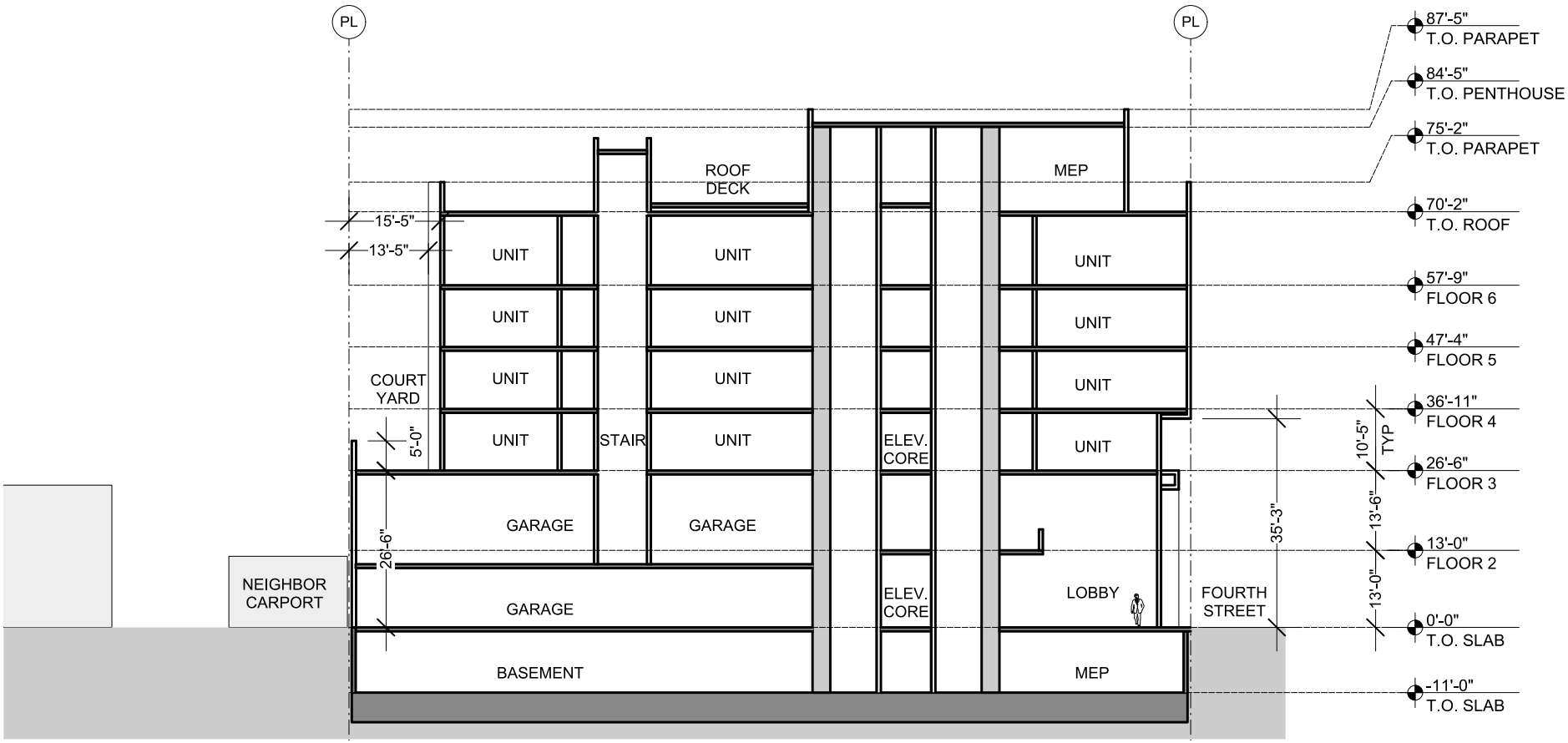
The No Project – No Development Alternative would retain the existing apartment buildings and single-family residence as is. If the project site were to remain as is, there would be no significant impacts. This alternative would not meet any of the project objectives. In addition, the City would lose the opportunity to redevelop an underutilized site downtown to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density development on a downtown site.

The project site has a zoning designation of CG which is intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls. It is possible that in the future an alternative development proposal, such as another residential building or a mixed-use building, may be presented for the project site. Any future development proposals for the site would require review and approval by the City of San José.

7.4.1.3 *Reduced Development Alternative*

The proposed project would not comply with the lot patterns and massing elements of the 2004 Historic Guidelines. Additionally, the project would not comply with height transition, width transition, rear transition of Standard 4.2.2 and massing (d), façade (g) of Standard 4.2.4 of the 2019 Downtown Design Guidelines and Standards. The project would impact the integrity of the historic setting and semi-suburban feeling of the surrounding historic resources. The Reduced Development Alternative would reduce the height of the building from 23 stories to six stories (refer to Figure 7.4-1). Under this alternative, one level of below-grade and two levels of above-grade parking are proposed. The remaining floors (floors three to six) would consist of 44 dwelling units, a reduction of 196 units when compared to the proposed project. With this reduction in height, it is reasonable that the project would be constructed in a shorter timeframe. In regard to impacts to historic resources, the reduced height would comply with more elements of the 2004 Historic Guidelines and 2019 Downtown Design Guidelines and Standards. In addition, consistent with the proposed project, the Reduced Development Alternative would not impact the integrity of the adjacent historic resources. All other impacts would be the same as the proposed project with all identified mitigation measures and Standard Permit Conditions.

This alternative would not meet project objectives 1, 3, 4, and 5.



REDUCED DEVELOPMENT ALTERNATIVE

FIGURE 7.4-1

7.4.2 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.

Table 7.4-1: Alternatives Comparison Table

Significant Project Impacts	Proposed Project	No Project Alternative	Reduced Development Alternative
Construction activities associated with the proposed project would expose off-site receptors to cancer risk and $PM_{2.5}$ emissions in excess of BAAQMD thresholds.	LTSM	**NI**	LTSM
A portion of the site may have been occupied by a brewery cellar processing area and kiln and a potential oil heating tank may have been present at the adjacent property near the 475 South Fourth Street boundary. Construction activities associated with the proposed project could potentially expose construction workers and/or nearby residents to soil, soil vapor, and groundwater contamination.	LTSM	**NI**	LTSM
Existing noise-sensitive land uses would be exposed to construction noise levels in excess of the City's threshold for a period of more than one year.	LTSM	**NI**	LTSM
Project construction would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 50 feet of the project site.	LTSM	**NI**	LTSM

Table 7.4-1: Alternatives Comparison Table			
Significant Project Impacts	**Proposed Project**	**No Project Alternative**	**Reduced Development Alternative**
Considering the size, construction equipment to be used, location, and construction timeframe of both the proposed project and the South Fourth Street Mixed-Use project (i.e., assuming construction of both projects would overlap), the receptors within the immediate vicinity could be exposed to a significant cumulative construction noise impact.	LTSM	**NI**	LTSM
Overlapping project schedules with the adjacent South Fourth Street Mixed-Use development could result in a cumulative vibration impact.	LTSM	**NI**	LTSM
NI – No Impact LTS – Less Than Significant Impact LTSM – Less Than Significant Impact with Mitigation SU – Significant Unavoidable **Bolded text** indicates impacts that are lesser than the impacts of the proposed project.			

7.4.3 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 which would not meet any of the project objectives. Beyond the No Project – No Development Alternative, the Reduced Development Alternative would be the environmentally superior alternative as it would reduce construction impacts.

SECTION 8.0 REFERENCES

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

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

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