Initial Study

Bo Town Mixed Use

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

April 2022

TABLE OF CONTENTS

TABLE OF CONTENTS

Figures

Photos

Tables

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY/ADDENDUM

This Initial Study (IS)has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulation and policies of the City of San José.

1.1.1 Downtown Strategy 2040

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the Downtown area. The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy 2040 was necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program level.

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This IS/ provides that subsequent project-level environmental review.

This IS has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy 2040 plan. In accordance with CEQA, this IS tiers from the Downtown Strategy FEIR.

This IS and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, 3rd floor, with an appointment during normal business hours.

1.2 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The NOD will also be available for public inspection on the State Clearinghouse website. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Bo Town Mixed Use Project

2.2 LEAD AGENCY CONTACT

City of San José
Kara Hawkins
200 East Santa Clara Street
San José, California 95113
kara.hawkins@sanjoseca.gov
(408) 535-7852

2.3 PROJECT APPLICANT

Project Bo Town LLC
Andrew Jacobsen
2107 Elliott Ave, Suite 303
Seattle, WA 98121

2.4 PROJECT LOCATION

The 0.75-acre project site is located at 409 & 425 South 2nd Street, in downtown San José. The project is bounded by East San Salvador Street to the north, South 2nd Street to the east, and commercial development to the south and west. See Figure 2.4-1, 2.4-2, and 2.4-3.

2.5 ASSESSOR'S PARCEL NUMBER

467-47-097, 467-47-020, and 467-47-019

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

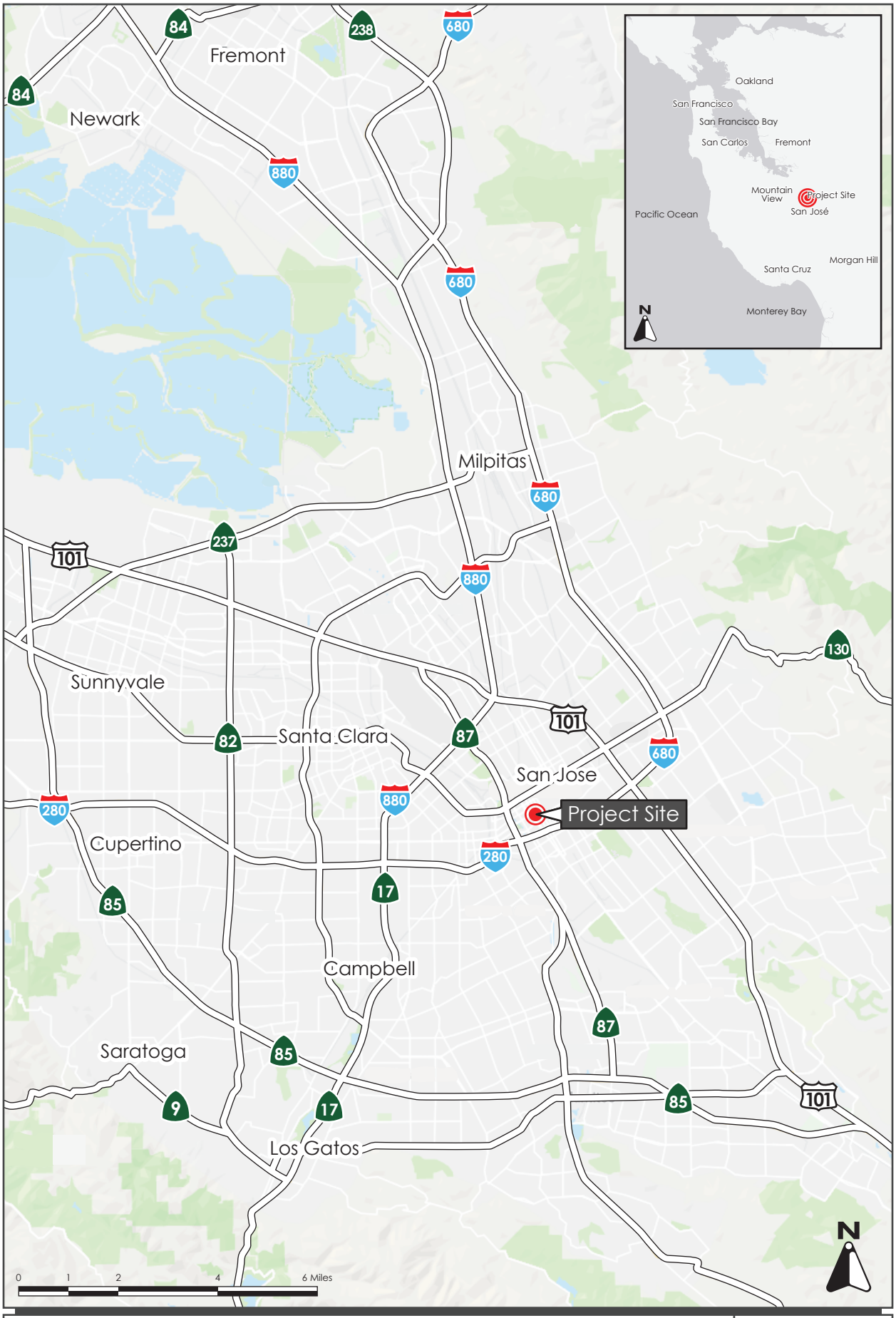
The proposed project is designated Downtown under the City's General Plan and is zoned Downtown Primary Commercial District.

2.7 HABITAT PLAN DESIGNATION

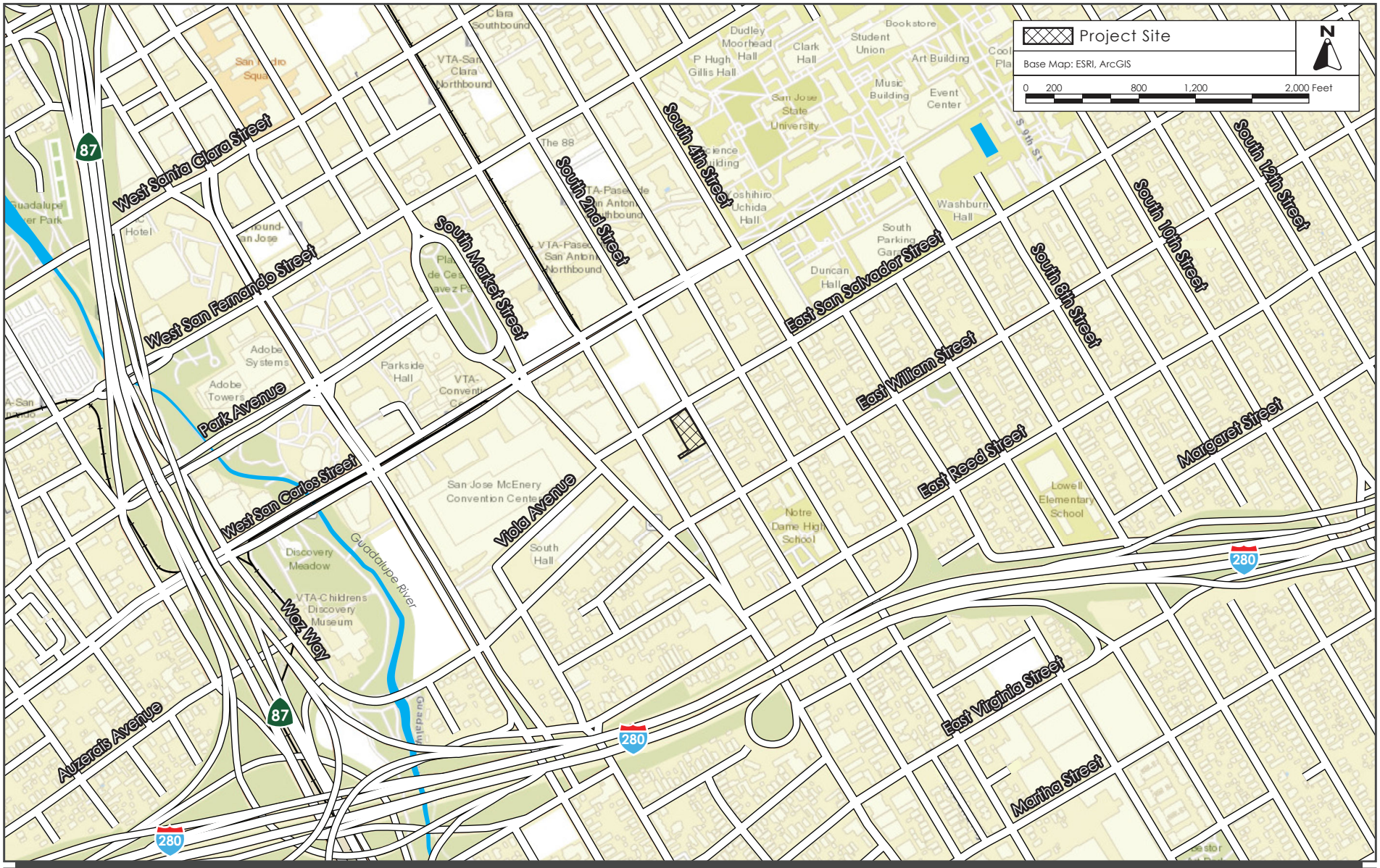
The project site is classified as Urban-Suburban under the Santa Clara Valley Habitat Plan.

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Site Development Permit
- Tree Removal Permit
- Parcel Map
- Demolition, Grading, and Building Permit(s)
- Department of Public Works Clearances



REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SITE

The 32,737 square foot (0.75 acre) project site is a located at 409 & 425 South 2nd Street, in downtown San José (Assessor Parcel Numbers [APNs] 467-47-097, 467-47-020, and 467-47-019). The site is zoned Downtown Primary Commercial and is designated Downtown in the General Plan. The site is currently developed with a 5,283 square foot restaurant building with a 55-space parking lot, and a two-story storage structure. The parking lot is accessible by a driveway on East San Salvador Street and a driveway on South 2nd Street.

3.2 PROJECT DESCRIPTION

The proposed project would demolish the existing both structures and the surface parking lot to construct a mixed-use development comprised of a 30-story (293 foot) high rise with up to 540 residential units, approximately 10,284 square feet of amenity space, and 5,491 square feet of ground floor retail space. The residential density would be 719 dwelling units/acre (DU/AC). The building would provide multiple residential amenities including active and passive interior communal on the first floor, and a meeting rooms and additional communal spaces on the second floor. The top floor of the building would include a pool, gym, and common open space.

As proposed, the facades on all sides of the structure would have trees planted in raised planter boxes on balconies associated with each of the residences. The proposed project would integrate an on-site wastewater recycling facility to provide treatment for wastewater produced by the proposed project. It is estimated that approximately 21,820 gpd would be treated on the project site and returned to the proposed project as recycled water for non-potable uses.

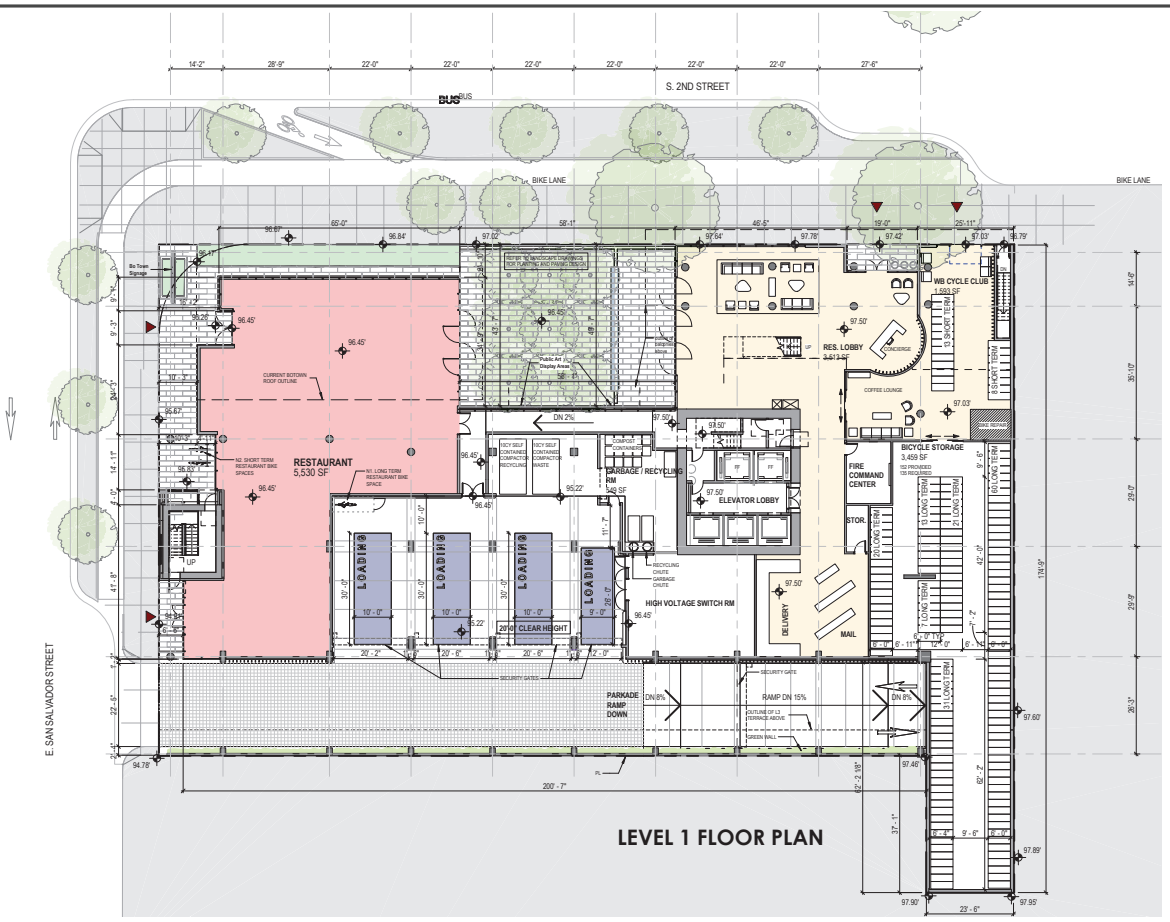
Parking for the residential units would be provided in a four-level, below-grade parking garage containing 175 parking stalls and 176 bicycle parking spaces. No parking would be provided for the commercial uses. The parking garage for the proposed project would be accessible by a two-way driveway located along the western property line on East San Salvador Street. Project plans and elevations are included in Figure 3.2-1 and Figure 3.2-2 below.

The proposed project would include the implementation of a Transportation Demand Management Program including a transit incentivization program, and at least two of the following: commute alternatives, provision of traffic information, participation in spare the air programs, match carpools, review resident travel patterns, or implementation of new modes and technologies.

The project would excavate approximately 50 feet below grade for the underground parking and would remove approximately 61,000 cubic yards of soil. This excavation activity would take approximately 10 to 15 months. The remaining the construction activities would take an additional 18 months for a total of approximately 33 months of construction. Extended construction hours are proposed six days a week from 7:00am to 10:00pm.

The proposed project would incorporate measures to meet LEED certification for building design and construction including but not limited to bicycle facilities, water efficient design features, optimized

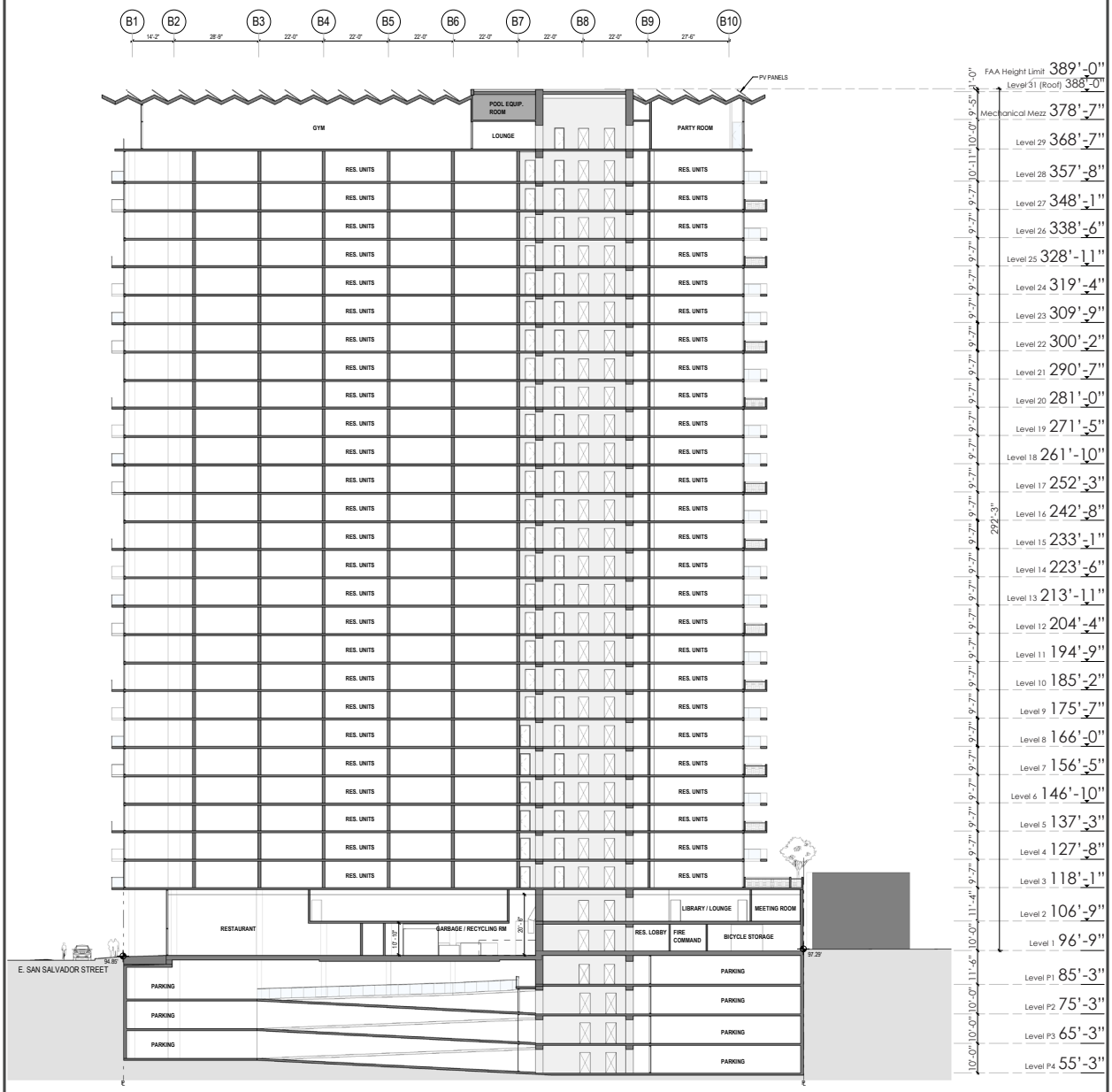
energy efficiency measures, properly sourced construction materials, and indoor environmental improvements.



Source: James KM Cheng Architects, Inc., September 2, 2021.

PROJECT PLANS

FIGURE 3.2-1



Source: James KM Cheng Architects, Inc., May 25, 2021.

ELEVATION DIAGRAM | FIGURE 3.2-2

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

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 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) 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).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[1]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[2]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9,

[1] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA" October 14, 2014. Accessed October 8, 2021. https://www.opr.ca.gov/docs/Revised_VMT_CEQA_Guidelines_Proposal_January_20_2016.pdf.

[2] California Department of Transportation. "Scenic Highways." Accessed October 8, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

City of San José

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

City Council Policy 4-3: Private Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The Downtown area is exempt from this policy.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the Downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

Policy	Description
CD-1.1	Requires the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.12	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screened parking vehicles from the public realm.

	Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures to minimize their visibility and reduce their potential to detract from pedestrian activity.
CD1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best management practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architecture and site design in its center.

4.1.1.2 *Existing Conditions*

Existing On-site Aesthetics

The project site is located in the fully urbanized area of downtown San José. The site is occupied by a single restaurant structure signified by the "Bo Town Seafood" stylized sign on the corner of East San Salvador Street and South 2nd Street. Behind this structure to the west is a small parking lot. South of the restaurant is a second parking lot with a blue two-story structure located on the west side.

The Bo Town Restaurant structure features a low brick wall planter beneath the eastern façade windows, and a landscaped area beneath a mural on the northern façade. The most defining characteristics of the building are the Googie architectural style features including, the sloped roof with parabolic structure[3] and large bank of street facing windows on the eastern façade. Additionally, the restaurant has a mural associated with the existing video game bar on the northern façade. The blue two-story structure features three first floor garages, painted siding on the second floor, and a hipped roof. While the restaurant is in good condition, the two-story structure is in a moderate state of disrepair.

In addition to the two structures, multiple trees are located throughout the site adjacent to the blue two-story structure. These features can be seen in Photos 1-4 below.

[3] Smooth or segmented U-shaped forms similar to an arch.

Existing Surrounding Aesthetics

The project site is adjacent to a variety of uses. North of the project site is a large parking lot and multi-story theatre structure currently used as a climbing gym. The theater building fronts South 1st Street and has its original signage. The southern façade (facing towards the project site) has a series of abstract murals. A second mural (partially visible from the project site) is located on the eastern façade of the theater building. Beyond the parking lot are multiple brick buildings and large office buildings. To the east of the project site there is a commercial building with a red awning, white stucco façade, and parking lot to the south of the building. Additionally, to the east there is a small white stucco retail building and two residences with Victorian architecture. On the south side of the project site there is a two-story modern hotel building with colored and white stucco. To the west the views are predominately the backs of one-story brick buildings. These features can be seen in Photos 5-8.

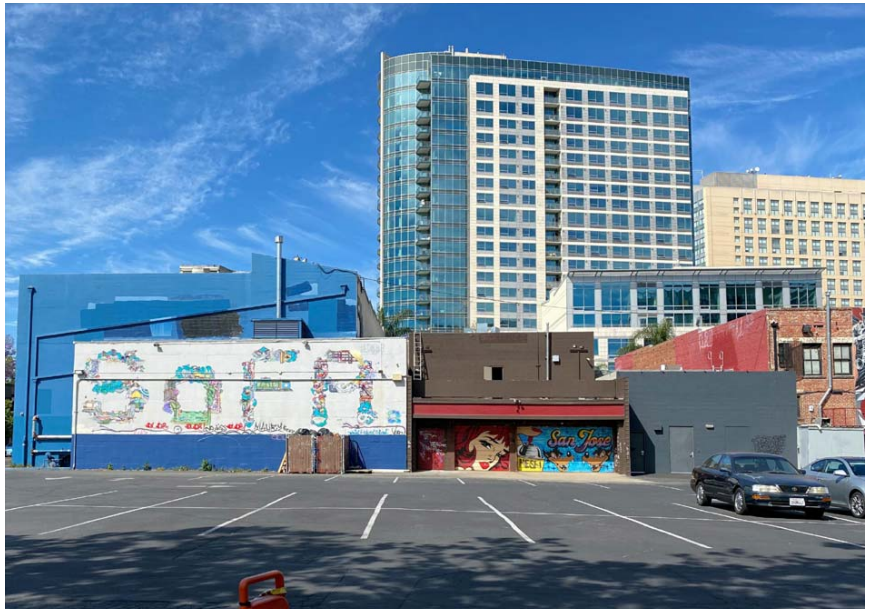
Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the downtown skyline are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

Photos 1 through 4: Views of Project site and Adjacent Uses



Photos 5 & 6: Views of Theatre Adjacent to project site

Source: WRNS Studio, August 31, 2021.

PHOTOS 5 - 6

4.1.2 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
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[4] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the Downtown Strategy 2040 FEIR. Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

The proposed project would meet the criteria of SB 743 because 1) the project would construct a mixed-use project and 2) the project is located within a transit priority area.[5] Consistent with Public Resources Code Section 21099, the project would have a less than significant aesthetics impact. While the project would have a less than significant aesthetic impact, this Initial Study addresses the CEQA checklist questions for informational purposes given the size and location of the project within the downtown.

[4] Public views are those that are experienced from publicly accessible vantage points.
[5] ArcGIS. Transit Priority Areas (2021). Accessed July 23, 2021. https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5.

a) Would the project have a substantial adverse effect on a scenic vista?

The proposed project would construct a 30-story mixed-use building on a site currently occupied by a one-story restaurant, a surface parking lot, and a two-story storage structure. Views of the hillside areas and the downtown skyline are key scenic features in the City, however, most of the City is flat so these views are largely obstructed by the built environment. The project site is located within a highly urbanized area with no designated scenic resources. While construction of the proposed project with a maximum height of up to 389 feet would be visible in the immediate area, the proposed project would be consistent with other development in the area and would not diminish scenic views or damage any scenic resources in the project area. Therefore, implementation of the project would not result in a significant impact on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project site is not located along a state-designated scenic highway. The nearest state-designated highway is SR 9, located more than eight miles southwest of the project site. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located within an urbanized area that consists of residential and commercial land uses. Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would comply with Title 20 of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **[Same Impact as Approved Project (Less than Significant Impact)**

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The proposed project would construct a 30-story mixed-use structure which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights, security lights, and external building lights.

The project would be subject to Section 20.75.360 of the City's Municipal Code which requires lighting to be directed away from any residential uses so that there will be no glare. The proposed project would be subject to the City's design review process prior to the issuance of development

permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Additionally, the 30-story mixed-use structure would cast shadows onto existing residential and commercial development (refer to Section 4.11 Land Use for a discussion of the project's shade and shadow impacts). Nevertheless, compliance with the Downtown Design Guidelines, City policies, and regulations would protect the night sky and control the amount of light shining on streets, sidewalks, and residential properties. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[6]

4.2.1.2 *Existing Conditions*

Based on the Santa Clara County Important Farmland Finder map[7], the project site in the downtown area of San José does not contain agricultural resources nor does it contain forest areas or land under Williamson Act contracts.

[6] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

[7] California Department of Conservation. Important Farmland Finder. Accessed February 3, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

4.2.2 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) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on agriculture and forestry resources, as described below.

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

There are no agricultural resources locate on-site including, Prime Farmland; Unique Farmland; or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency.[8] The project would have no impact on agricultural resources. **[Same Impact as Approved Project (No Impact)]**

[8] California Department of Conservation. Important Farmland Finder. Accessed February 3, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project site is not subject to a Williamson Act contract. The site is located within the Downtown Primary Commercial zoning district and would not conflict with any agricultural zoning. **[Same Impact as Approved Project (No Impact)]**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is zoned for Downtown Primary Commercial and is identified as Urban and Built-Up Land on the California Department of Conservation database of agriculturally related data. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not impact these resources by conflicting with existing zoning for forest land, timberland, or timberland zoned Timberland Production. **[Same Impact as Approved Project (No Impact)]**

d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?

The project site is fully developed and does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest uses. **[Same Impact as Approved Project (No Impact)]**

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

The project site is fully developed and does not contain land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural or forest land to non-agricultural or non-forest uses. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

As proposed, the project would demolish the existing parking lot and buildings on-site and construct a 30-story residential tower with ground floor commercial.

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

Implementation of the proposed project has the potential to result in significant air quality construction impacts. The projects impacts to air quality are evaluated in the SEIR. No further analysis is provided in this IS.

4.4 BIOLOGICAL RESOURCES

The information in this section is based in part on the Certified Tree Inventory prepared by HMH on December 28, 2020. This report is available in Appendix B of this Report.

As proposed, the project would demolish the existing parking lot and buildings on-site and construct a 30-story residential tower with ground floor commercial.

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

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

Implementation of the proposed project has the potential to result in significant biological resources construction impacts. The projects impacts to biological resources are evaluated in the SEIR. No further analysis is provided in this IS.

4.5 CULTURAL RESOURCES

The approximately 0.75-acre project site is situated at the intersection of East San Salvador Street and South 2nd Street in downtown San José. The site containing three parcels is located on the northeast corner of the block bounded by East San Salvador Street to the north, South 2nd Street to the east, South 1st Street to the west, and East William Street to the south. The project site contains a one-story restaurant building constructed in 1968, a two-story accessory building constructed circa 1920, and surface parking lots. The surrounding area consists of a mix of commercial, institutional, and multi-family residential buildings.

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

Based on the potential to impact historic structures and subsurface resources, the proposed project could result in a significant and unavoidable impact to cultural resources. The analysis of cultural resources impacts is presented in the SEIR. No further analysis will be provided in this IS.

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[9] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[10]

[9] California Building Standards Commission. "California Building Standards Code." Accessed September 28, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

[10] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed September 28, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[11]

Regional and Local

Climate Smart San José

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

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

City of San José

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

[11] California Air Resources Board. "The Advanced Clean Cars Program." Accessed September 15, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

- Transition to a renewable energy future
- Embrace our California climate
- Densify our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management and energy efficiency.

Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

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 energy and are applicable to the project.

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into design and construction.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer installed residential development unless for recreation or other area functions.

MS-5.5 Maximize recycling and composting from all residents, businesses, and institutions in the City.

MS-6.5 Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.

MS-6.8 Maximize reuse, recycling, and composting citywide.

MS-14.2 Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.

MS-14.3 Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategy Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

MS-14.4 Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.

MS-17.2 Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.

MS-18.5 Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.

MS-18.6 Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.

MS-19-4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking, and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[12] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.[13] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[14]

[12] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 31, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[13] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 31, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[14] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed August 31, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within San José. In 2019, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[15] In 2019, residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 26 percent, the industrial sector used 35 percent, and other uses used six percent. Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[16]

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[17] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[18] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026. [19,20]

Energy Use of Existing Development

The electricity and natural gas used by the existing buildings on-site is shown below in Table 4.6-1.

[15] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed August 31, 2021. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[16] California Energy Commission. "Natural Gas Consumption by County." Accessed August 31, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[17] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed August 31, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[18] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.
[19] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed August 31, 2021. http://www.afdc.energy.gov/laws/eisa.
[20] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed August 31, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Table 4.6-1: Estimated Annual Energy Use of Existing Development			
Development	**Electricity Use (kWh)**	**Natural Gas Use (kBtu)**	**Gasoline (gallons per year)**
Parking Lot	0	0	0
High Turnover (Sit Down Restaurant)	167,585	1,079,751	27,450
Storage Building	0	0	0
Total	**167,585**	**1,079,751**	**27,450**
Energy usage rates were calculated using CalEEMod Appendix D (High Turnover (Sit Down Restaurant)). CalEEMod. "Table 8.1 Energy Use by Climate Zone and Land Use Type."			

4.6.2 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) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

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

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Construction

Construction would be scheduled for six days a week for 30 months (approximately 780 construction workdays). Construction activities would include demolition, site preparation, grading, trenching, building construction, architectural coating, and paving. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer Standard Permit Conditions identified in *Section 3.1 Air Quality* of the Draft SEIR). Additionally, the project would comply with the City's Construction and Demolition Diversion Program. For these reasons, the proposed project would not result in a

significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction.

Operation

The proposed project would construct up to 7,535 square feet of commercial space and up to 540 residential units. Table 4.6-2 summarizes the estimated energy use of the proposed project.

Table 4.6-2: Estimated Annual Energy Use of Proposed Development

Development	Electricity Use (kWh)	Natural Gas Use (kBtu) [1]	Gasoline (gallons per year)
Apartments High-Rise	2,089,180	0	154,342
Enclosed Parking With Elevator	557,410	0	0
High Turnover (Sit Down Restaurant)	239,023	0	34,306
Total:	**2,885,613**	**0**	**188,648**

Source: Illingworth and Rodkin. Air Quality Assessment. November 2021.
Note: [1] The City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. Therefore, natural gas use was set to zero.

Compared to current conditions, the proposed project would result in a net increase in electricity usage of approximately 2,718,028 kWh and a decrease in natural gas usage of approximately 1,079,751 kBtu. Annual gasoline consumption as a result of the project would have a net increase of approximately 161,198 gallons of gasoline. The increase in electricity use is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. In addition, General Plan Action MS-2.11 requires development to incorporate green building practices through construction, architectural design, and site design techniques. The proposed project includes on-site renewable energy resources (solar panels), and the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance.

The proposed project would be required to meet the City's bicycle parking requirement. Additionally, the project site is adequately served by existing transit services. The San José Diridon Transit Center is located approximately one mile from the site. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site and would reduce gasoline consumption.

Implementation of the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during operation of the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The project would be served by SJCE and would be built in accordance with CALGreen requirements, Title 24 of the City's Municipal Code, City of San José Council Policy 6-32, and the City's Green Building Ordinance. Implementation of the proposed project would not conflict with or obstruct implementation of a state or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These materials are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

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 geologic and seismic hazards and are applicable to the project.

Policy	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Development in areas subject to soils and geologic hazards, including engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjacent properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any new grading occurring between October 15 and April 15.
EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.
EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.7.1.2 *Existing Conditions*

The project site is located in northern Santa Clara Valley, which is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley is underlain by sedimentary and metamorphic rocks of the Franciscan Complex. Overlying these rocks are alluvial sediments deposited by streams draining the adjacent mountains during recent geologic times (Holocene age). The alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay, and gravel.[21] [22]

Surface soils in the project area have been mapped as Urban land-Elpaloalto complex, 0 to 2 percent slope soils which have a slow infiltration rate and a moderate shrink-swell (expansion) potential. Expansive soils occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity of buildings and other structures place on site.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project area is located within a potential liquefaction zone.[23]

[21] R.J. McLaughlin, J.C. Clark, E.E. Brabb, E.J. Helley, and C.J. Colon. USGS. Geologic Maps and Structure Sections of the Southwestern Santa Clara Valley and Southern Santa Cruz Mountains, Santa Clara and Santa Cruz Counties, California. 2001.
[22] E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth. Quaternary Geology of Santa Calra Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database. May 1994.
[23] Ibid.

Seismic Hazards

The San Francisco Bay Area is recognized by geologists as one of the most seismically active regions in the United States. Significant earthquakes occurring in the Bay Area are generally associated with the San Andreas Fault system, which spans the Coast Ranges from the Pacific Ocean to the San Joaquin Valley. The closest active fault to the downtown area is the Hayward fault zone, located approximately five miles to the east. Other potentially active faults within ten miles include the San Andreas, Monte Vista-Shannon, and Calaveras faults. There are no active faults in the project area.[24]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. Guadalupe River is located approximately 0.35 miles west of the project site and Coyote Creek is approximately one mile east of the project site. At these distances, the potential for lateral spreading on-site is low.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within a Santa Clara County Landslide Hazard Zone.[25] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

4.7.2 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) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐

[24] Ibid.
[25] County of Santa Clara. Geologic Hazards Zones, Map 20, 2012. Accessed June 23, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

	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:					
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

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

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045. As mentioned above in Section 4.7.1.2, no active faults have been mapped on-site and, as a result, the risk of fault rupture is low. The project site and area are relatively flat and have a low potential for lateral spreading during seismic events. Additionally, the project site is located within an area of moderate expansion potential.

Consistent with the Downtown Strategy 2040 FEIR, the project would be required to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The Geotechnical Report should include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the California Building Code.

With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in substantial soil erosion or the loss of topsoil?

Ground disturbance during construction of the project would expose soils, increasing the potential for wind and/or water erosion at the site. The proposed project would be required to implement the following Standard Permit Conditions to reduce significant construction-related soil erosion.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

In addition to the Standard Permit Conditions, the project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's Municipal Code (refer to *Section 4.10, Hydrology and Water Quality*). Implementation of the Standard Permit Conditions and applicable policies and regulations would reduce soil erosion impacts to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Geologic Hazards

Based on the California Department of Conservation Regulatory Map, the project site is located within a liquefication zone[26] but the potential for lateral spreading to occur on-site is low due to the location of the site relative to local waterways. Since the soils on-site have moderate expansion potential, the proposed project would be required to use standard engineering and seismic safety design techniques during project construction. Additionally, the project would be constructed in conformance with a site-specific geotechnical investigation (refer to Standard Permit Condition above). The site is not located on soil that is or would become unstable and result in on- or off-site landslide, lateral spreading, subsidence or collapse. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Groundwater

Groundwater on-site is estimated at a depth of approximately 12 to 16 feet bgs and the project site would be excavated to a depth of approximately 50 feet for the below-grade parking garage. Since excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction (refer to *Section 4.10 Hydrology and Water Quality* of this document). Consistent with the Downtown Strategy 2040 FEIR and City policy, the project would implement the following Standard Permit Condition to reduce and/or avoid impacts related to dewatering.

Standard Permit Condition:

- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

Because the proposed project would comply with the Standard Permit Condition, the soils on-site would not become unstable as a result of the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

[26] California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed June 23, 2021. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The project site is underlain by Urban land-Elpaloalto complex, 0 to 2 percent slope soils. These soils have a large amount of smectic clays[27] with high plasticity and blocky structure, which are features of soils with expansive properties.[28]

The Downtown Strategy 2040 FEIR concluded that new development and redevelopment allowed under the Downtown Strategy 2040 could occur in areas with identified soil hazards, including expansive soils and artificial fill. In conformance with the Downtown Strategy 2040 FEIR and current practices in the City of San José, a geotechnical investigation addressing the potential hazards of soil liquefaction and expansion must be submitted. Although the soils on-site have moderate expansion potential, implementation of the previously identified Standard Permit Condition would not result in a substantial direct or indirect risk to life or property. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The project site is served by the local sewer system and would not need septic tanks or alternative waste disposal systems to be installed. Therefore, the project would have a less than significant impact regarding septic tanks or alternative waste disposal systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The site would be excavated to a depth of approximately 50 feet for the below-grade parking garage which could potentially disturb unknown paleontological resources during excavation, grading and construction activities. Consistent with the Downtown Strategy 2040 FEIR, the project would comply with the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

[27] Smectic clays are a clay structure in soils with specific chemical composition, exchangeable ion type, and small crystal size which are responsible for several unique properties, the ability to modify the flow behavior of liquids.
[28] United States Department of Agriculture. Soil Survey: Elpaloalto Series. Accessed: June 23, 2021. https://soilseries.sc.egov.usda.gov/OSD_Docs/E/ELPALOALTO.html.

Standard Permit Conditions:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7.3 Non-CEQA Effects

Per California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of a project on the environment 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 geology and soils conditions affecting a proposed project.

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on-site or on adjoining properties. Pursuant to the Downtown Strategy 2040 FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

Additionally, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.

The project site contains soils with moderate expansion potential. Consistent with Action EC-4.11, the project applicant would be required to submit a design-specific geotechnical report. The proposed project would be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent CBC, which contains the regulations that govern the construction of structures in California. Adherence to the CBC would reduce seismic related impacts and ensure that the new development proposed within areas of geologic hazards would not be endangered by hazardous site conditions.

Because the proposed project would comply with the design-specific geotechnical report, the CBC, and regulations identified in the Downtown Strategy 2040 FEIR, the project would comply with General Plan Policies EC-4.2 and EC-4.4.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO2 equivalents (CO2e). The most common GHGs are carbon dioxide (CO2) and water vapor but there are also several others, most importantly methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO2 and N2O are byproducts of fossil fuel combustion.
- N2O is associated with agricultural operations such as fertilization of crops.
- CH4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

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

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

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

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

Climate Smart San José

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

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

Reach Building Code

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

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[29]

City of San José

City of San José Municipal Code

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

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

[29] City of San José. Greenhouse Gas Reduction Strategy. November 2020. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

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

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

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 greenhouse gas emissions and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to Sections 4.3 Air Quality, 4.6 Energy, and 4.16 Transportation for these policies.

Policy	Description
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is developed with a commercial building and two surface parking lots. Most of the GHG emissions associated with the existing uses on-site result from the production of electricity and burning of natural gas to power the facility for lighting, heating, and cooling, and the emissions from vehicles traveling to and from the site

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

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would result in a less than significant GHG emissions impacts, as described below.

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

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 30 months (519 construction workdays) and would not result in a permanent increase in emissions. The proposed project would not interfere with the implementation of SB 32. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the Downtown Strategy 2040, the project would comply with the GHGRS and would result in a less than significant GHG emissions impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

2030 Greenhouse Gas Reduction Strategy

As mentioned previously, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed project is within the development capacity approved by the Downtown Strategy 2040 FEIR; therefore, the project would be consistent with the 2030 GHGRS.

The GHGRS includes seven strategies for emissions reductions. These include, use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would enroll in San José Clean Energy, which represents the largest reduction in GHG emissions identified in the reduction strategy.

While the project is within the development capacity approved by the Downtown Strategy 2040 FEIR, the project would comply with specific measures of the GHGRS. The proposed project is consistent with the Land Use/Transportation Diagram designation of Downtown. The proposed project also incorporates all applicable mandatory measures of the GHGRS (refer to Appendix C), including installing clean energy power generation sources, using 100 percent carbon-free electricity, exceeding the City's construction & demolition waste diversion requirement, implementing a Transportation Demand Management program, installing high-efficiency appliances/fixtures and water-sensitive landscaping, and providing access to reclaimed water for outdoor water use.

For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Climate Smart San José

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

As discussed in *Section 4.6 Energy*, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City which is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The information in this section is based in part on the Phase I Environmental Site Assessment prepared by AEI on January 25, 2021. This report is included in Appendix D.

As proposed, the project would demolish the existing parking lot and buildings on-site and construct a 30-story residential tower with ground floor commercial.

4.9.1 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?	☐	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐

	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:					
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant impacts related to hazards and hazardous materials. The projects impacts from hazards and hazardous materials are evaluated in the SEIR. No further analysis is provided in this IS.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Statewide Construction General Permit

The State Water Resources Control Board (SWRCB) has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[30] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[31] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Beginning July 1, 2019, all applicants for a demolition permit or any other permit that involves the demolition of a building must submit the Screening Assessment Form with their building permit application in San José.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects

[30] MRP Number CAS612008

[31] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[32]

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

[32] California Department of Water Resources, Division of Safety of Dams. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD). Accessed June 9, 2020.

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit.

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

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 hydrology and water quality and are applicable to the project.

Policy	Description
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site.
ER-10.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated flood plain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated

benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

EC-5.7 Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

EC-5.16 Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

EC-7.10 Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

IN-3.1 Achieve minimum levels of services:

- For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.
- For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.

IN-3.3 Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

IN-3.9 Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

4.10.1.2 *Existing Conditions*

Surface Water Quality

The project site does not contain surface water resources within the boundaries of the site. The nearest surface water resource is the Guadalupe River located 0.35 miles west of the site. Water from the project site is currently channeled into storm drains located throughout the project site and on the corner of East San Salvador Street and South 2nd Street. These storm drains connect to the City's storm drain system which carries runoff into the Guadalupe River, and eventually into the San Francisco Bay.

According to the EPA[33], the Guadalupe River is currently listed on the 303(d) list of impaired waterways for pesticides, mercury, and trash.

[33] United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.). 2016. Accessed February 12, 2021. https://mywaterway.epa.gov/community/95050/overview.

Flooding

According to the FEMA Flood Insurance Rate Maps (FIRM),[34] the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.

Dam Failure

The project site is located in the Anderson Dam and Lexington Dam failure inundation hazard zones,[35] [36].

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[37]

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater beneath the site is estimated to be between 12 to 16 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Based on the Downtown Strategy 2040 FEIR, the downtown area is located within a sub-watershed that is greater than 65 percent impervious. Therefore, the proposed project would be exempt from hydromodification requirements.

[34] FEMA. Flood Insurance Rate Map: Santa Clara County Panel 234 of 830. Map Number 06085C0234H. May 18, 2009.
[35] Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed November 12, 2020. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.
[36] Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed November 12, 2020. https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf.
[37] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed November 12, 2020. http://resilience.abag.ca.gov/tsunamis/.

4.10.2 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) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

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

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction Impacts

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is approximately 0.75-acre in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are, however, required to comply with the City of San José's Grading Ordinance[38] whether or not the project is required to obtain an NDPES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust, as necessary.
- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas would be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

[38] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

With implementation of the identified Standard Permit Conditions, construction of the proposed project would have a less than significant impact on water quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

Under existing conditions, the project site is 93 percent (approximately 30,611 square feet) covered with impervious surface area. Upon completion of the proposed project, the site would be covered with approximately 92 percent (30,312 square feet) of impervious surfaces, a net decrease of one percent. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the project proposes media filters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Dewatering

Groundwater is estimated to be approximately 12 to 16 feet below ground surface. The proposed project would include four levels of below-grade parking to a depth of approximately 50 feet bgs which could interfere with the shallow groundwater aquifer. It is anticipated that dewatering would be required during project construction.

Standard Permit Conditions:

- Construction General Permit Requirements. Prior to initiating grading activities, the project applicant will file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project's SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and construction activities. All measures shall be included in the project's SWPPP and printed on

all construction documents, contracts, and project plans. The following construction BMPs may be included in the SWPPP:

- Restrict grading to the dry season or meet City requirements for grading during the rainy season.
- Use effective, site-specific erosion and sediment control methods during the construction period. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
- Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff with secure plastic sheeting or tarps.
- Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
- Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
- Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

The SWPPP shall also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction.

When the construction phase is complete, a Notice of Termination (NOT) will be filed with the RWQCB and the DTSC, in conformance with the Construction General Permit requirements. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a Post-Construction Stormwater Management Plan is in place, as described in the SWPPP for the site.

- Dewatering. The proposed project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and be filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a state-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.

The project would comply with the identified Standard Permit Conditions and would have a less than significant impact on water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

The project site is not located within a designated groundwater recharge zone.[39] Since the project site would require dewatering during construction, the project would implement the Standard Permit Conditions mentioned in *Sections 4.7 Geology and Soils* and above. For these reasons, the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. The project would not result in a new or more significant impact on groundwater than described in the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

Drainage Pattern Impacts

Per the Downtown Strategy 2040 FEIR, existing surfaces within the plan area are largely impervious, making future development unlikely to alter existing drainage patterns such that substantial flooding or erosion would occur in the receiving water bodies. The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.10-1 below.

[39] Santa Clara Valley Water District. Groundwater Management Plan. November 2016.

Table 4.10-1: Pervious and Impervious Surfaces On-Site						
Site Surface	**Existing/Pre-Construction (sq ft)**	**%**	**Project/Post-Construction (sq ft)**	**%**	**Difference (sq ft)**	**%**
Impervious Surfaces						
Roof Area	5,283	16	30,312	92	+25,029	+76
Parking	25,328	77	0	0	0	-77
Sidewalks, Patios, Driveways, etc.	0	0	0	0	0	0
Streets	0	0	0	0	0	0
Subtotal	30,611	93	30,312	92	-299	-1
Pervious Surfaces						
Pavement and Landscaping	2,058	7	2,357	8	+299	+1
Total:	32,669	100	32,669	100		

As mentioned previously, the project site is currently 93 percent (approximately 30,611 square feet) covered with impervious surfaces. Under existing conditions, the storm drainage lines have sufficient capacity to serve the site. The impervious surfaces on-site would decrease by approximately 299 square feet under project conditions which would result in a slight decrease in stormwater runoff. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP, to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants.

The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce drainage impacts. In accordance with General Plan policies, future development within the Downtown Strategy 2040 area would be required to be designed and constructed to meet the City's 10-year storm event design standard. As a result, the proposed project would not substantially alter the existing drainage pattern of the site or area. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties.

As mentioned in *Section 4.10.1.2*, the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. The project site is also located within the Lexington and Anderson Dam failure inundation zones. The California Division of Safety of Dams (DSOD) inspects dams on an annual basis and Valley Water routinely monitors the 10 dams, including the Lexington and Anderson Dams Therefore, the likelihood of flooding from dam failure is low and the

project would not release pollutants due to dam inundation. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

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 land use and are applicable to the project.

Policy	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.8	Create an attractive street presence with pedestrian-scaled buildings and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. • Include attractive and interesting pedestrian-oriented streetscape features such as furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. • Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this plan, and are compatible with the planned uses of the area.

- Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
- Locate retail and other active uses at the street level.
- Create easily identifiable and accessible building entrances located on street frontages or paseos
- Accommodate the physical needs of elderly populations and persons with disabilities
- Integrate existing or proposed transit stops into project designs.

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

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

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

CD-6.2 Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

CD-6.10 Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.

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

LU-3.5 Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrian safety.

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

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

4.11.1.2 *Existing Conditions*

Existing Land Uses

The project site is zoned Downtown Primary Commercial and is under the General Plan Downtown designation. The site is currently used for a restaurant structure and two-story storage structure along with two associated parking lots.

Downtown General Plan designation allows for a mix of office, retail, service, residential, and entertainment uses in the Downtown area. This allows for up to 800 dwelling units per acre and a FAR of up to 30.0 for buildings three to 30 stories tall. All development within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The Downtown Primary Commercial zone provides permitted uses for general retail, food services, and offices/financial services; among other uses.

Surrounding land uses include commercial land uses to the north and west sides of the site, commercial and retail to the east side of the site, and commercial and hotel to the south. The commercial uses include a climbing gym, several restaurants, and a grocery store in addition to some office spaces and event space. These areas are similarly under the Downtown General Plan designation and Downtown Primary Commercial zoning district.

4.11.2 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) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐
c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☒	☐

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

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would construct a 30-story tower with up to 540 dwelling units and 7,535 square feet of commercial space which is consistent with the existing land uses in the area. The Downtown Strategy 2040 FEIR concluded that future development under the Downtown Strategy 2040 would not substantially change allowed land uses in the Downtown and would generally continue and reinforce the patterns of land use currently in place. The proposed project would be consistent with the existing uses in the project area and, would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

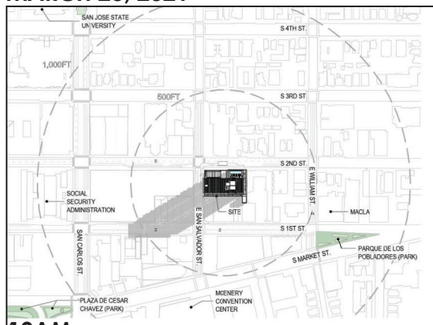
b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

As described within the individual sections of this document implementation of the City's Standard Permit Conditions, and the required Downtown Strategy 2040 FEIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. Based on the above, the impact is less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

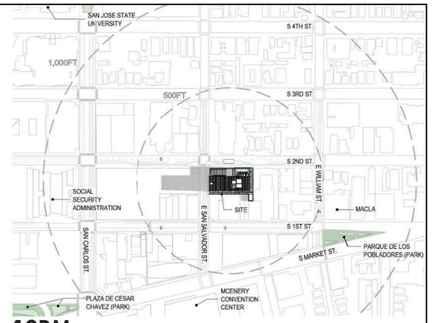
c) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?

The proposed project is located on the corner of East San Salvador and South 2nd Street which is located approximately 920 feet from the nearest major open space area, Plaza de Cesar Chavez. A shade and shadow study was prepared for the proposed project, as seen in Figure 4.11-1, which determined that the proposed project would not result in increases in shadows on the nearby park facilities. Therefore, the proposed project is not located directly south, east, and west of the six major open space areas in Downtown and is not required to prepare a project-specific shade and shadow analysis and would result in a less than significant shade and shadow impact on downtown open space areas. **[Same Impact as Approved Project (Less than Significant Impact)]**

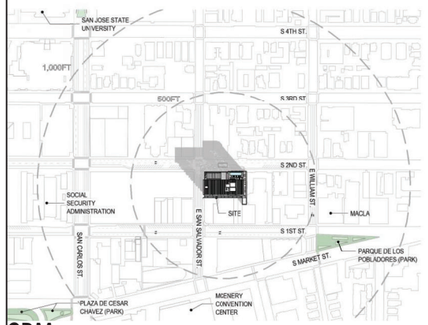
MARCH 20, 2021



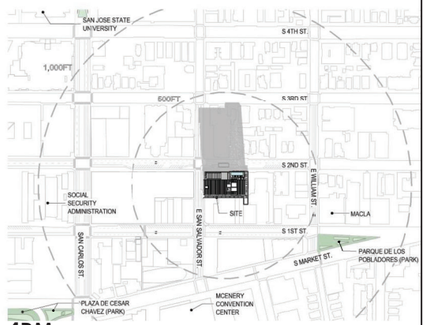
10AM



12PM

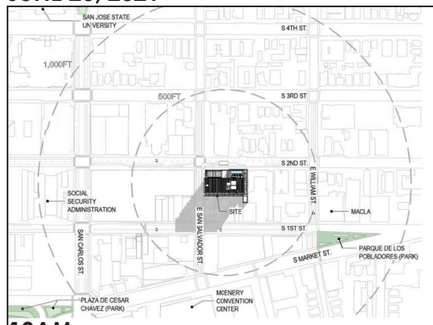


2PM

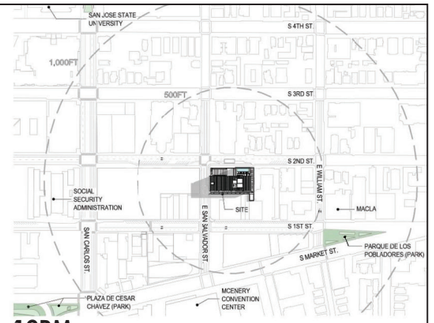


4PM

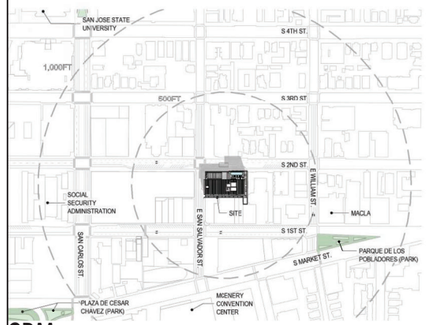
JUNE 20, 2021



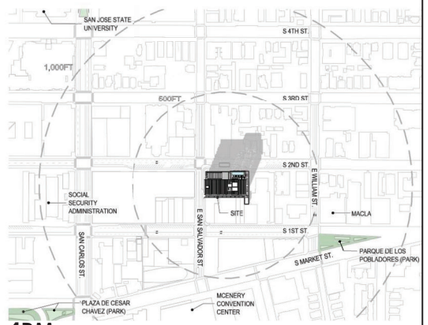
10AM



12PM

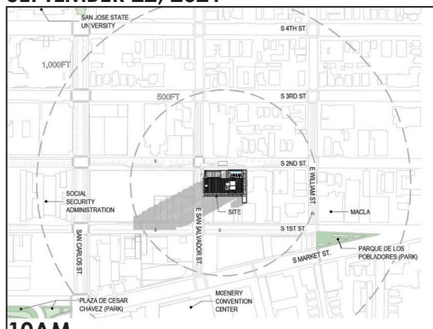


2PM

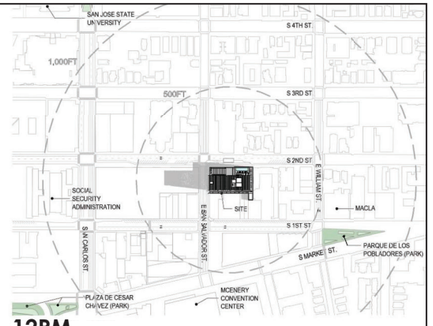


4PM

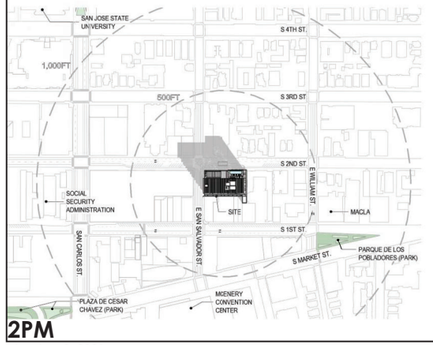
SEPTEMBER 22, 2021



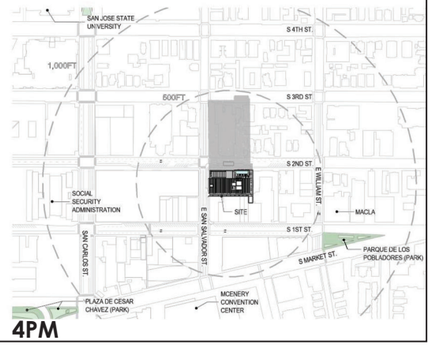
10AM



12PM

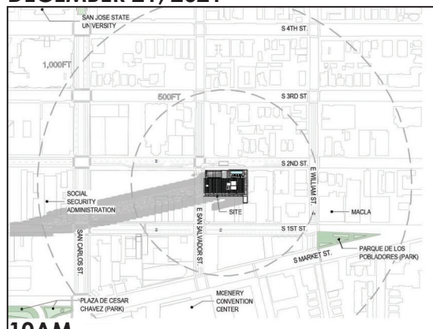


2PM

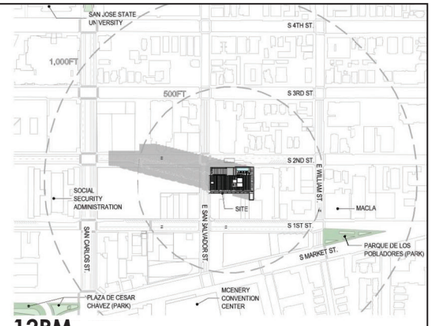


4PM

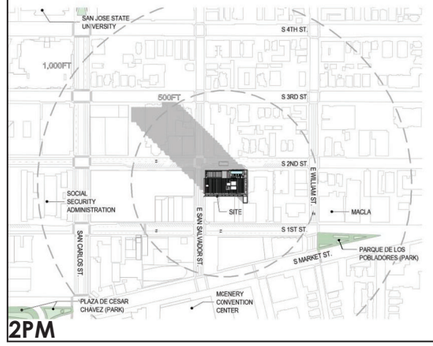
DECEMBER 21, 2021



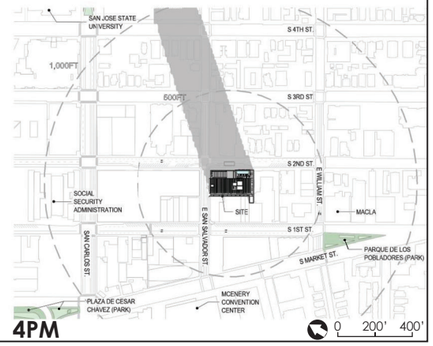
10AM



12PM



2PM



4PM

Source: Steinberg Hart, September 2, 2021.

SHADE AND SHADOW STUDY

FIGURE 4.11-1

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.12.1.2 *Existing Conditions*

The project site is located in the downtown San José area which is not known to contain mineral resources or local or state importance. The nearest mineral resources identified in the General Plan are located approximately 3.75 miles south at Communications Hill.[40]

4.12.2 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) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	☐

[40] City of San José. Downtown Strategy 2040 FEIR. December 2018. https://www.sanjoseca.gov/Home/ShowDocument?id=44054.

	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:					
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project have no impact on mineral resources, as described below.

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

The project site is located in the Downtown San José area which is located 3.75 miles north of the nearest identified mineral resources, therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **[Same Impact as Approved Project (No Impact)]**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

The project site is located in the Downtown San José area which is located 3.75 miles north of the nearest identified mineral resources, therefore the project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

As proposed, the project would demolish the existing parking lot and buildings on-site and construct a 30-story residential tower with ground floor commercial.

4.13.1 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?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant construction noise and vibration impacts. The project's impacts to noise and vibration are evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[41] The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[42]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

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 population and housing and are applicable to the project.

[41] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed August 31, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[42] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." Accessed August 31, 2021. http://projectmapper.planbayarea.org/.

Policy	Description
IP-2.1	Gradually implement the development of new Urban Village areas by dividing them into three Plan Horizons and allowing a specific portion of the Urban Village areas to be developed within each Horizon. Identify the locations of current Plan Horizon Urban Villages presently available for residential development on the Land Use/Transportation Diagram.
IP-2.4	Conduct a Major Review of this 2040 General Plan by the City Council every four years to evaluate the City's achievement of key economic development, fiscal and infrastructure/service goals, greenhouse gas emission reduction goals and targets, water conservation and recycling goals, availability and affordability of housing supply, Healthful Community goals, and review changes and trends in land use and development. Based on this review, determine the City's readiness to begin the next General Plan Horizon or to modify the number of "pool" residential units available for non-specific Urban Village areas within the current Plan Horizon. Amend the Land Use/Transportation Diagram and/or 2040 General Plan goals, policies, and actions accordingly.
IP-10	Open Horizons for development in planned phases to give priority for new residential growth to occur in areas proximate to Downtown, with access to existing and planned transit facilities, and adequate infrastructure to support intensification, and proximate to other Growth Areas to contribute to the City's urban form.
IP-3.2	As part of the 2040 General Plan Annual Review, carefully monitor the jobs-to-employed resident ratio and, as a minimum, consider the following current development trends: • Vacant land absorption; • Amount of residential and economic development; • Amount and value of non-residential construction; • Number and types of housing units authorized by building permit, including number of affordable units, and development activity level in zonings, development permits, annexations and building permits; • Status and current capacity of major infrastructure systems which are addressed in General Plan Level of Service policies (transportation, sanitary sewers and sewage treatment); • Transit-ridership statistics and other measures of peak-hour diversion from single occupant vehicles; • Status and implementation of Green Vision, General Plan policies, and other greenhouse gas reduction strategy measures, including greenhouse gas emission reductions compared to baseline and/or business-as-usual; and • Levels of police, fire, parks and library services being provided by the City.
IP-19.1	Through a Major General Plan Review or, as needed, through the Annual General Plan review process, evaluate the Plan's consistency with housing development goals as determined by the State and regional agencies and take actions as necessary to address their requirements.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[43] The projections produced by ABAG predict the City population to increase to 1,357,845 by 2040.[44] The City currently has approximately 335,887 housing units[45]

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. According to the Downtown Strategy 2040 FEIR, the current ratio of jobs to employed residents in San José is estimated to be 0.8, making the city "housing rich".

The project site is currently occupied by a restaurant and does not contribute to the population or housing stock of the City.

4.14.2 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) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, future development under the proposed aforementioned FEIRs would make a substantial contribution to the significant unavoidable impact related to the jobs/housing imbalance. The proposed project, by itself, would result in less than significant population and housing impacts, as described below.

[43] State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2019.
[44] ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.
[45] Ibid.

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project would construct a residential tower with 540 dwelling units which would result in an increase of approximately 1,723[46] new residents. The proposed project is part of planned growth in the downtown area. While the project would increase housing within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The proposed project would not displace any residents and would contribute a significant number of dwelling units to the total housing available in the City of San José. Therefore, the proposed project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **[Same Impact as Approved Project (Less than Significant Impact)]**

[46] The average number of residents is calculated from 3.19 persons per household from the State of California Department of Finance.

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

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 public facilities and services and are applicable to the project.

Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station 30, located at 454 Auzerias Avenue, which is approximately 0.6 miles southwest of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 1.8 miles northwest of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The nearest public schools to the project site are Gardner Elementary, located at 502 Illinois Avenue (approximately 0.84 miles southwest of the site), Hoover Middle School, located at 1635 Park Avenue (approximately 2.2 miles west of the site), and Lincoln High School, located at 555 Dana Avenue (approximately 2.13 mile west of the site).

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,537 acres of regional and neighborhood/community-serving parkland, including approximately 197 neighborhood-serving parks and nine regional parks.[47]

The nearest parks to the project site are Parque De Los Pobladores (located 425 feet southwest of the project site) and Plaza de Cesar Chavez (located approximately 920 feet northwest of the project site).

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 25 branch libraries. The nearest library is Dr. Martin Luther King Jr., approximately 0.3 miles northeast of the project site.

[47] City of San José. *Fast Facts.* October 8, 2019.

4.15.2 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 substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:	☐	☐	☐	☒	☐
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?					

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The proposed project would construct a 30-story tower that would add approximately 540 residential units to the project site which could increase calls for fire protection service on-site. New buildings, including the proposed project, are required to be constructed in accordance with current fire and building codes. According to the Downtown Strategy 2040 FEIR, development allowed under the General Plan would not require the construction of new fire stations, other than those currently planned. The project is part of the planned growth in the downtown area and would not result in a substantial adverse physical impact associated with the need for additional fire protection services or facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

Full build out of the Downtown Strategy 2040 FEIR would increase the demand for police protection services. The project, by itself, would not require additional police services or facilities since it

would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. The project would be consistent with full build out of the Downtown Strategy 2040 plan and would not prevent the SJPD from meeting their service goals or require the construction of new or expanded police facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

The project would generate additional K-12 students due to the increase in housing units on-site. Planned growth under the General Plan would generate an additional 11,079 students in the San Jose Unified School District (SJUSD). Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.133 elementary students, 0.071 middle school students, and 0. 062 high school students per unit.[48] As a result, it is estimated that the project would generate a total of 71 elementary students, 38 middle school students, and 33 high school students. The following table shows the student capacity and enrollment numbers for the schools that would serve the proposed project.

Table 4.15-1: Local School Facilities

Local School	Capacity[49]	Current Enrollment (2019-2020)
Gardner Elementary School	374 students	376 students[50]
Hoover Middle School	1,094 students	1,090 students[51]
Lincoln High School	1,702 students	1,725 students[52]

As shown above, Gardner Elementary School and Lincoln High School are currently operating slightly over capacity and Hoover Middle School is nearly at capacity. The addition of up to 140 students in the SJUSD would comprise a small percentage of the total student population. The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated in the General Plan.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior

[48] City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.
[49] Case, Jill. Director of Student Operational Services. San José Unified School District. Personal Communication. March 27, 2020.
[50] California Department of Education. *Gardner Elementary School Accountability Report Card*. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696666048532?year=2019-2020.
[51] California Department of Education. *Herbert Hoover Middle School Accountability Report Card*. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696666062111?year=2019-2020.
[52] California Department of Education. *Abraham Lincoln High School Accountability Report Card*. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696664333795?year=2019-2020.

to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment. The project would be required to pay school impact fees pursuant to Government Code section 65996 which would reduce impacts to public school facilities.

With payment of the school impact fees, the proposed project would have a less than significant impact on school services and would not, by itself, require new school facilities to be constructed. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

The City of San José has a PDO which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The proposed project would increase the City population by 1,658 new residents. The project proposes fitness space, three courtyards, and a roof deck and lounge area. In addition to the recreational facilities proposed on-site, the project would be required pay the applicable Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

Since the proposed project would be required to comply with payment of the PDO/PIO fees, implementation of the project would not result in significant impacts to park and recreational facilities in San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

Library Facilities

The City of San José has been expanding and constructing new library facilities over the last decade to meet the needs of current residents. The General Plan policies maintain the City's current policy of providing at least 0.59 square feet of library space per capita. Development and redevelopment allowed under the General Plan would increase the City's residential population to 1,313,811. The

City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The Downtown Strategy 2040 FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The proposed increase in residents at the project site were analyzed as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

Activate San José Strategic Plan (2020-2040)

ActivateSJ is a people-focused, service-driven plan adopted by the City of San José in 2020. The plan focuses on guiding principles of stewardship, nature, equality and access, identity, and public life. The five guiding principles speak directly to what San José residents value and expect from a parks and recreation department in the 10th largest city in the nation. They are strategic priorities that will carry San José into the future, help us identify opportunities and guide decisions, which may include the development of regional capital-centric Greenprints.

The plan is a 20-year strategic plan for the City of San José's Department of Parks, Recreation and Neighborhood Services which will ensure that neighborhood parks continue to be destinations for residents, that regional parks showcase the best of San José, that community centers continue to serve as points of connection, and that the Parks and Recreation Department continues to enhance the quality of life in our diverse neighborhoods.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

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 recreation and are applicable to the project.

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3-mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3-mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[53] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 48 community centers, nine regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Parque De Los Pobladores (located 425 feet southwest of the project site) Plaza de Cesar Chavez (located approximately 1,100 feet northwest of the project site). The nearest community center is Gardner Community Center, located approximately 0.9-mile southwest of the project site at 520 West Virginia Street. The project site does not currently contain recreational facilities.

[53] City of San José. Annual Report on City Services 2019-20. December 2020.

4.16.2 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
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒	☐
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant recreation impacts, as described below.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would add approximately 1,658 people to the project site which would increase the use of parks and community centers in the surrounding area. The project proposes indoor and outdoor recreational facilities on-site (passive and active) which may include lounge areas, a cycling club, a billiards lounge, pool, gym, barbeque stalls, common open space, and a library lounge. These facilities would help offset the use of existing recreational facilities in the area by future residents of the site.

The project would be required (as a Standard Permit Condition) to pay the applicable PDO/PIO feeds. The City's PDO would be satisfied through a combination of several means including: dedication of land; payment of a fee (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities. Therefore, the project would not result in a substantial physical deterioration of recreational facilities in the area. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The project does not include the expansion or construction of additional recreational facilities. In addition, due to the proposed facilities on-site and the payment of PDO fees, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals.

As a result, implementation of the project would not result in an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The information in this section is based in part on a Local Transportation Analysis prepared Fehr and Peers in March 2022. This report is included in Appendix E of this report.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is at least 15 percent below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is less than or equal to existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

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 transportation and are applicable to the project.

Policy	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.3	Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are present in the following table:

Commute Mode Split Targets for 2040		
Mode	Commute Mode Split Targets for 2040	
	2008	2040 Goal
Drive alone	77.8%	No more than 40%
Carpool	9.2%	At least 10%
Transit	4.1%	At least 20%
Bicycle	1.2%	At least 15%
Walk	1.8%	At least 15%
Other means (including work at home)	5.8	See Note 1
Source: 2008 data from American Community Survey (2008) Note1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.		

TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

TR-5.3 Develop projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.

TR-8.4 Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

TR-8.6 Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

TR-8.9 Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

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

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

CD-3.6 Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

4.17.1.2 *Existing Conditions*

Interstate 280 (I-280) and SR 87 provide regional access to the project site. San Salvador Street, Market Street, First Street, and Second Street, along with other nearby roadways, provide local site access. Each facility is described below in more detail.

I-280 is an east-west freeway located south of the project site with four travel lanes in each direction. I-280 provides east-west movement through San José and neighboring cities. Access to the project site from I-280 is provided via Market Street, First Street, and Fourth Street.

SR 87 is a north-south freeway located west of the project site with three travel lanes in each direction. One travel lane in each direction is designated as a High Occupancy Vehicle (HOV) lane, in effect from 5:00 – 9:00 AM and 3:00 – 7:00 PM, Monday through Friday. SR 87 extends between US 101 to the north and SR 85 to the south. Access to the project site from SR 87 is provided via West Julian Street/West St. James Street.

Market Street, runs north-south two blocks west of the Project site, provides two travel lanes in each direction. On-street parking is provided on both sides of the street along some blocks. Market Street ends to the south where it converges with First Street just south of Reed Street, where it continues as First Street. Market Street extends to the north to Basset Street.

1st Street is a two-lane, north/south road between in the vicinity of the project site that transitions to a two-lane, northbound only road north of East San Carlos Street. Where the road becomes one-way, it consists of one bus-only lane and one shared vehicular/bicycle lane. Northbound VTA light rail tracks also run along the east side of the roadway between San Carlos Street and St. James Street. 1st Street provides access to the project site via East San Salvador Street.

2nd Street is a two-lane, southbound only road between St. James Street and its convergence with 1st Street (at East Humboldt Street). North of St. James Street, 2nd Street is a two-lane street allowing both northbound and southbound travel. 2nd Street runs along the east project frontage and provides direct access to the project site.

San Salvador Street is a two-lane roadway which continues into 17th Street to the east and ends at Market Street to the west. San Salvador Street is directly adjacent to the project site to the north and provides direct access via a full-access driveway.

Pedestrian Facilities

Pedestrian facilities near the project site are comprised of sidewalks and crosswalks. The streets adjacent to the project site, including East San Salvador Street and South 2nd Street, have continuous sidewalks on both sides of the roadway.

The two major intersections nearest to the project site, East San Salvador Street and South 1st and South 2nd Street, have standard crosswalks for all directions of travel. Crosswalks for all directions of travel are also provided at the intersection of East San Salvador Street and Market Street. All intersections near the project site provide curb ramps for access to sidewalks.

Bicycle Facilities

The immediate site vicinity includes two types of bicycle facilities: Class II and Class III bikeways. Class II bikeways (bike lanes) are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the proposed site, striped bike lanes are present on the following roadway segments:

- Almaden Boulevard, between Woz Way and Carlysle Street
- Park Avenue, west of Market Street
- Woz Way, between San Carlos Street and Almaden Avenue
- Santa Clara Street, west of Almaden Boulevard
- San Salvador Street, between Market Street and Fourth Street
- Third Street, between Taylor Street and San Carlos Street
- Fourth Street, between Jackson Street and Santa Clara Street; between San Salvador Street and Reed Street
- Almaden Avenue, between Alma Avenue and Grant Avenue
- Vine Street, between Alma Avenue and Grant Avenue

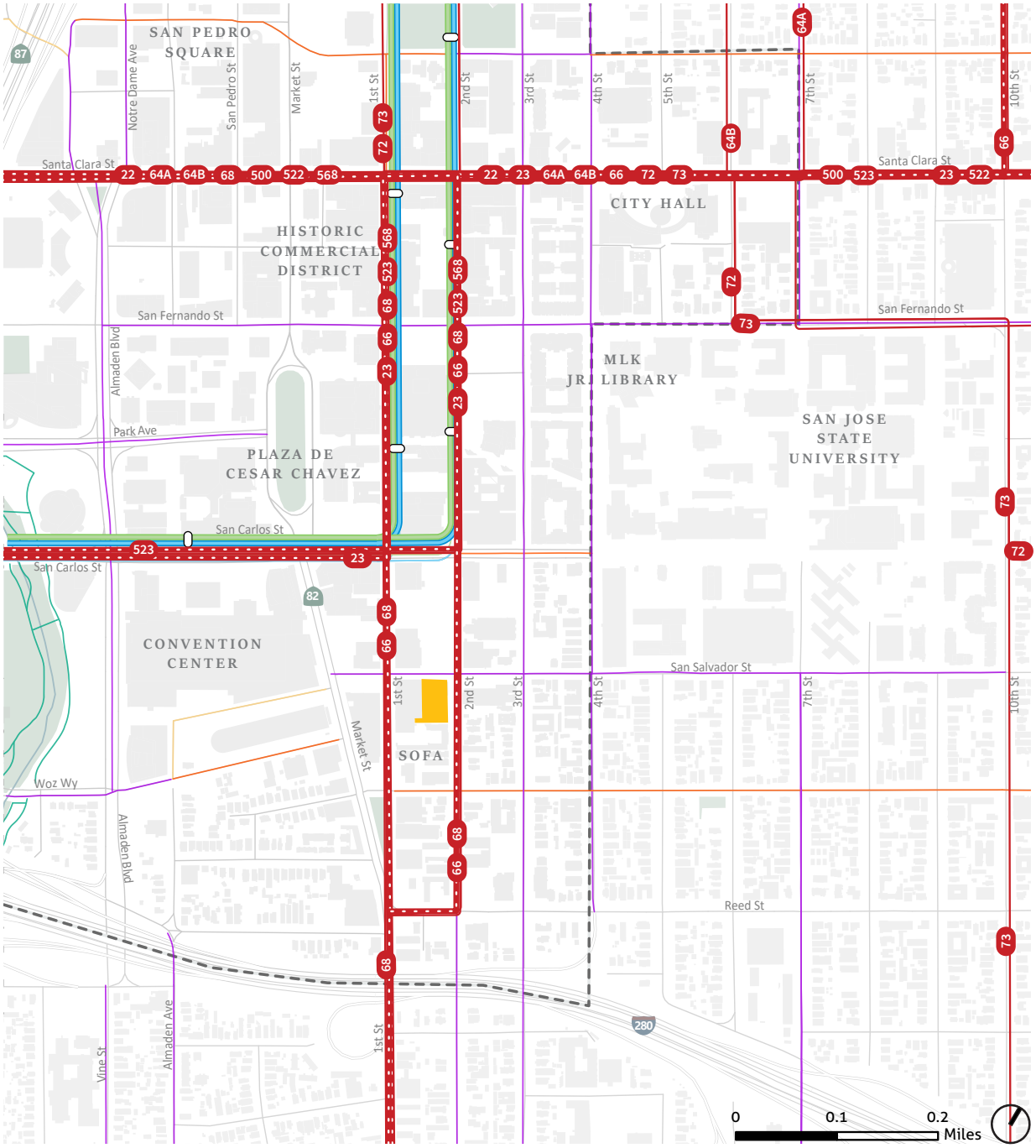
Class III bikeways (bike routes) are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. In the vicinity of the project site, the following roadway segments are designated as bike routes:

- San Carlos Street, between Woz Way and Fourth Street (including along the south project frontage)
- San Fernando Street, east of Tenth Street
- Second Street, between San Carlos Street and Julian Street
- 1st Street, between San Salvador Street and St. John Street (including along the east project frontage)
- San Salvador Street, between Fourth Street and Tenth Street (eastbound)
- William Street, between First Street and McLaughlin Avenue

Class IV bicycle facilities (protected bike lanes) are currently being installed throughout the Downtown Area as part of the Better Bikeways project. Protected bike lanes have been implemented along the following roadways:

- San Fernando Street, between Cahill Street and Tenth Street
- 2nd Street, between San Carlos Street and William Street
- 3rd Street between St. James and Reed Street
- 4th Street, between Santa Clara Street and San Salvador Street
- San Salvador Street, between Fourth Street and Tenth Street (westbound)
- Autumn Street, between Santa Clara Street and St. John Street
- Cahill Street, between San Fernando Street and Santa Clara Street

Existing bicycle facilities are shown on Figure 4.17-1.



Project Site

Downtown Growth Area

Bus

Frequent Bus

Rapid Bus

Light Rail

Blue Line

Green Line

Light Rail Stop

Existing Bike Facilities

Class 1

Class 2

Class 3

Class 4

Source: VTA Draft 2021 Transit Service Plan - The 90% Plan
San Jose Better Bike Plan 2025

Source: Fehr & Peers, August 2021.

EXISTING BICYCLE AND TRANSIT FACILITIES | FIGURE 4.17-1

Guadalupe River Park Trail

The Guadalupe River Park Trail is a multi-use trail that runs through the City of San José along the Guadalupe River, is shared between pedestrians and bicyclists, and is separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile Class I bikeway from Curtner Avenue to Willow Street, and between Virginia Street and Palm Street to Alviso. This trail system can be accessed just west of Almaden Boulevard and West San Carlos Street intersection, approximately 1,500 feet west of the project site.

Bike and Scooter Share Services

The Bay Wheels (formerly Ford Go Bike) bike share program allows users to rent and return bicycles at various locations. Bike share bikes can be rented and returned at designated docking stations throughout the downtown area. In addition, dockless bike and scooter rentals are available throughout the downtown area. These services provide electric bicycles and scooters with GPS self-locking systems that allow for rental and drop-off anywhere. Two bike share stations are located within 100 feet of the project site: one at the northwest corner of the South Market Street/West San Carlos Street intersection and the second at the southwest corner of the South 1st Street/East San Carlos Street intersection.

Transit Services

Bus and light rail service in San José are operated by the VTA. Table 4.17-1 summarizes the existing transit services for the Bo Town project. The bus routes, bus stop, Light Rail Transit (LRT) lines, and LRT station are illustrated on Figure 4.17-1. The closest LRT station is the San Antonio Station on South 2nd Street. The walking distance from the project site to the LRT station is approximately 1,500 feet. The closest bus service operates directly adjacent to the Project on South 2nd Street.

Due to the ongoing COVID-19 pandemic, many transit agencies (including VTA) have temporarily reduced their services. The transit services described in Table 4.17-1 includes the route start and end points, operating hours, and peak headways as reported on the VTA website in August 2021 that include COVID-19 service changes.

Table 4.17-1 Transit Service Near the Project Site								
Route[1]	From	To	Weekdays		Saturday		Sunday	
			Operating Hours	Peak Headway[2] (minutes)	Operating Hours	Headway (minutes)	Operating Hours	Headway (minutes)
VTA Bus Service								
23	De Anza	Alum Rock Station	5:35 AM – 12:40 AM	10	5:50 AM – 12:40 AM	10	5:50 AM – 11:50 PM	15
66	North Milpitas	Kaiser San José	5:05 AM – 11:40 PM	15	5:40 AM – 11:35 PM	20	5:40 AM – 10:30 PM	20
68	Diridon Station	Gilroy Transit Center	4:40 AM – 12:20 AM	15	5:25 AM – 12:40 AM	20	5:30 AM – 12:40 AM	20
523	Lockheed Martin Transit Center	San José State	6:10 AM – 10:15 PM	30	7:30 AM – 7:40 PM	30	7:30 AM – 7:40 PM	30
VTA Light Rail								
Blue	Santa Teresa Station	Baypointe Station	4:55 AM – 1:15 AM	20	5:30 AM – 1:15 AM	30	6:00 AM – 11:00 PM	30
Green	Winchester Station	Old Ironsides Station	5:45 AM – 12:45 AM	20	6:15 AM – 12:30 AM	30	6:15 AM – 11:00 PM	30

Notes: 1. Weekday and weekend service as of August 2021.
2. Headways are defined as the time between transit vehicles on the same route.

The project site is also located within a mile of the Diridon Transit Center which is served by Caltrain, ACE, VTA light rail, and Amtrak trains. The bus plaza at the station is served by Amtrak Thruway Motorcoach, Greyhound, Megabus, Monterey-Salinas Transit, Santa Cruz Metro (Highway 17 Express), and VTA buses.

4.17.2 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) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant transportation impacts, as described below.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Roadway Circulation

To determine if the proposed project would have an impact on roadway operations near the proposed project a queuing analysis was performed to identify where project traffic would increase vehicle queuing such that available storage capacity is exceeded.

Pedestrian and Bicycle Facilities

The existing pedestrian facilities provide good connectivity to surrounding areas and would not be affected by the proposed project. Existing pedestrian facilities along the frontage of the proposed project on San Salvador Street provide connectivity to other areas of downtown San José. Sidewalks would continue to be provided on San Salvador Street, and crosswalks would be available at all signalized intersections.

As stated above, there are Class II bike facilities traveling in both directions on San Salvador Street. The proposed project would not result in impacts on existing bicycle routes near the project site and would provide additional on-site shared use for bicycles. Additionally, the proposed project is within walking distance from the existing Bay Wheels bike share station near the intersection of First Street and San Carlos Street which would promote the use of bicycle facilities in the City, consistent with City policies. Therefore, the proposed project would result in less than significant impacts on

pedestrian and bicycle facilities and would not result in conflict with a program, plan, ordinance, or policy. **[Same Impact as Approved Project (Less than Significant Impact)]**

Transit

The proposed project is within walking distance of the San Antonio Station LRT on Second Street. This transit station has service that connects the project site to Diridon Station, which provides connections to Caltrain, ACE, and Amtrak. The proposed project improvements would not interfere with these transit facilities and the transit facilities would support the proposed project's ability to meet the mode share targets as outlined in the General Plan. The closest bus service operates directly adjacent to the project on Second Street and these facilities would also support project operations. Therefore, the proposed project would result in a less than significant impact on transit services and would not result in conflict with a program, plan, ordinance, or policy. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

City Council Policy 5-1 has established screening criteria to determine which projects require a detailed VMT analysis. Within the screening criteria, residential projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5 miles of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in Downtown, the number of parking spaces must be adjacent to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike or pedestrian infrastructure.

The proposed project is located within the downtown area which does not exceed the residential VMT per capita or VMT per job (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). The Downtown Strategy 2040 FEIR concluded that full build out of the Downtown Strategy 2040 Plan would result in low VMT and would have the lowest VMT of any plan area in the City. The proposed project is located within the downtown area covered by the Downtown Strategy 2040 FEIR and would have a less than significant VMT impact. The project site is approximately one mile from the Diridon Transit Center and approximately 0.25 miles from the San Antonio Station.

For these reasons, the project would not result in a significant VMT impact and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The proposed project would introduce a mixed-use building into the downtown San José area which is a use consistent with the character of the area. The proposed project would create standard commuter car trips, pedestrian trips, bicycle trips, and truck trips which would all be expected in the downtown area. Therefore, the proposed project would not create incompatible uses on roads around the project site.

Additionally, the proposed project would not require substantial changes to circulation of vehicles which may result in hazardous geometric design features. The proposed project would be accessible via a driveway located on East San Salvador Street which would be used for deliveries and access to parking under the building. Additionally, the access to the proposed project site would not have obstructions and would provide proper sight distance of oncoming traffic compliant with San José City regulations. Therefore, the proposed project would not introduce increased hazards from new geometric design features or incompatible uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project result in inadequate emergency access?

The proposed project would not result in changes to surrounding circulation systems or established evacuation routes. The proposed project would comply with municipal code ordinances and General Plan goals and policies regulating emergency access and evacuation routes. Additionally, the emergency service providers in the City would provide review and comment regarding emergency access during project design to confirm compliance with these policies. Therefore, the proposed project would have a less than significant impact on emergency access. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Non CEQA Effects

4.17.3.1 *Trip Generation*

The proposed project's trip generation was developed using average trip rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition for the residential and restaurant uses. Trip reductions, based on the location of the project site in downtown San José, were applied to the ITE rates.

The project site is located within the Central City Urban area based on the City of San José VMT Evaluation Tool. Central City Urban areas are defined by very high density, excellent accessibility, high public transit access, low single-family homes, and older high value housing stock. To reflect the proposed project's access to high-quality multimodal facilities, the trip generation estimated using ITE rates were reduced based on outputs from the San José Travel Demand Model, as summarized in Table 6 of the City of San José Transportation Analysis Handbook (April 2020). A 29 percent reduction was applied to trips generated by residential uses and a 16 percent reduction was applied to trips generated by restaurant uses. After applying the location-based reduction to the trip generation derived from ITE trip rates, the proposed project will generate 1,909 new daily trips, 137

AM peak hour trips (37 in, 100 out), and 155 PM peak hour trips (95 in, 60 out). The breakdown of project trips can be seen in Table 4.17-2 below.

Table 4.17-2 Project Trip Generation

ITE Land Use	Size	Unit	Daily	AM Peak Hour			PM Peak Hour		
			Trips	In	Out	Total	In	Out	Total
Proposed Land Uses									
Residential	540	DU	2,403	40	127	167	118	76	194
Reduction	29%		-697	-12	-36	-48	-34	-22	-56
High Turnover Restaurant	7,430	GSF	833	41	33	74	45	28	73
Reduction	16 %		-133	-7	-5	-12	-7	-5	-12
Existing Land Uses									
High Turnover Restaurant	5,250	GSF	592	29	23	52	32	20	52
Reduction	16%		-95	-4	-4	-8	-5	-3	-8
Net New Trips			**1,909**	**37**	**100**	**137**	**95**	**60**	**155**

Source: Fehr and Peers. Local Transportation Analysis. January 2022.

4.17.3.2 *Queueing Analysis*

The proposed project would contribute additional trips to the intersections surrounding the project site. Below is a description of the increased vehicle operations at the three closest intersections to the project site:

Market Street and East San Salvador Street

The results of the queuing analysis indicate that the westbound right-turn queue length of 75 feet during the AM peak hour and 100 feet during the PM peak hour at Market Street and East San Salvador Street exceeds the available storage capacity of 50 feet under existing conditions. Under background conditions, the queue length would be 75 feet and 125 feet in the AM and PM peak hours, respectively. Under background plus project conditions, the queue length would be 125 feet and 150 feet in the AM and PM peak hours, respectively, and exceed the storage capacity.

1st Street and East San Salvador Street

The available storage capacity meets the vehicle demand under background plus project conditions for all turning movements evaluated.

South 2nd Street and East San Salvador Street

The available storage capacity meets the vehicle demand under Background with Project Conditions for all turning movements evaluated.

4.17.3.3 *Parking Analysis*

Based on the proposed uses on site the project would require one parking space for each dwelling unit and no parking for the public eating establishment. This would require the provision of 540 vehicle parking spaces for residents. The proposed project includes a TDM program and is a mixed-

use development in the downtown area which allows for a 79 percent reduction in required parking spaces on-site [per municipal code ordinance 20.90.220 (A.1), 20.70.330 (a) and 20.70.330 (b)]. Therefore, the proposed project would only be required to provide 115 spaces for residents on site. The proposed project would provide a total of 175 parking spaces which would satisfy the requirement for parking on-site. See Table 4.17-3 for a breakdown of the reductions.

Table 4.17-3 Parking Requirements and Reductions

Ordinance	Percent Reduction	Space Reduction	Required Spaces
Downtown Zoning Districts – Minimum off-street parking requirements	-	-	540
TDM Program	50%	270	270
TDM program in Downtown	15%	40	230
Reduction for mixed-use developments in Downtown	50%	115	115
Total Required Parking	79%	425	115
Proposed Parking Supply	**66%**	**175**	**115**

Source: Fehr and Peers. Local Transportation Analysis. January 2022.
Note: Percent reduction is taken from remaining parking required, not total parking

In addition, the proposed project would be required to provide one bicycle stall per four residential units in the development and three spaces for the proposed restaurant for a total of 138 bicycle spaces in the proposed project. The proposed project would provide 176 bicycle spaces on the first floor of the residential building which would satisfy the requirement for bicycle parking on-site.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.1.2 *Existing Conditions*

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, located approximately 0.35 miles west of the project site.

4.18.2 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 cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant tribal cultural resources impacts, as described below.

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Guadalupe River is located approximately 0.35 miles west of the project site, which is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural

resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the downtown area of the City of San José. The tribal representatives for the Ohlone Tribe, and other tribes known to have traditional lands and cultural places within the City of San José, were sent the Notice of Preparation for the proposed project on September 7, 2021. A formal AB52 notification was sent to the Tamien Nation Tribal Representatives on September 17, 2021. Request for consultation was received by the City on September 17, 2021 and an initial meeting was held with the Tribal Representative on April 14th, 2022. The meeting concluded that the site is archeologically sensitive. Therefore, the tribe recommends preliminary investigation, a treatment plan, and monitoring during excavation phases. Further, the tribe recommends a plaque acknowledging the Native American Tribe affiliated with the area. Refer to the Cultural Resource Section in the SEIR for more information about archeological sensitivity and mitigation measures for subsurface finds. All mitigation measures and edits have been accepted and consultation concluded on April 14, 2022. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As mentioned above, no tribal cultural resource has been identified based on available information. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR (see response above).

Standard Permit Conditions

The following policy-level and programmatic measures included in the Downtown Strategy 2040 would result in potential cultural resource impacts that are not significant. These measures, can be adapted for the future development projects as avoidance and amelioration measures such as standard permit conditions, for development-specific tiering under CEQA from the Downtown Strategy 2040 EIR.

1. Appropriate Reviews: Conduct appropriate levels of reviews and literature review during the planning stage to understand existing information; including Sacred Lands Files (SLF) search and recorded findings by a qualified archaeologist. These listing are updated and maintained at the California Historical Resources Information System, Northwest Information Center, California State University Sonoma (CHRIS/NWIC). For projects involving ground-disturbing

activities, the City may require preparation of a site-specific archaeological resources report to address the potential for archaeological resources to be affected by the project.

2. Supplemental Reviews/Subsurface Testing: Sites in Downtown San José that are archaeological sensitive should in addition to the above conducted literature search, conduct exploratory trenching and borings on site/s to determine the extent of potential resources on-site. Subsurface testing methodologies and reporting will be based on the methodologies and best practices as described in the Secretary of Interior's Standards for Archaeological Documentation and conducted by a qualified archaeologist.
3. Determine Regulatory Status of Resources: A qualified archaeologist should determine the status of known resources and potential resources known through the measures (1) and (2) above. The above steps (1) through (3) will be formalized as the Archaeological Resources Assessment Report.
4. Stop Work and Evaluate Unanticipated Finds: If buried cultural deposits are encountered during project activities, all work within 50 feet of the find should be halted and redirected. A qualified archaeologist shall: (1) evaluate the find to determine if it meets the CEQA definition of a historical or archaeological resource; and (2) provide project-specific recommendations for data recovery and evaluation. The results of any archaeological investigation will be submitted to the NWIC. The results of the archaeological investigation may:
    - Results in findings that does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation.
    - Results in findings that meets the definition of a historical or archaeological resource. In which case avoidance and preservation of the resources in place shall be examined. Avoidance may be accomplished through redesign, conservation easements, or site capping.
5. Dignified and Respectful Treatment: An important aspect of the consultation process is a dignified and respectful treatment of TCRs. As part of mitigation measure requirements, the City may request inclusion of an Archaeological Monitoring Contractor Awareness Education Program.
6. Determine Feasible Avoidance and Alternatives: When an archaeological site meets the CEQA definition of a historical or archaeological resource and will be impacted by the proposed project, make reasonable efforts to feasibly avoid project impacts (e.g., project redesign, conservation easements, or site capping). Review the project elements to determine ways to protect the cultural and natural context of the resources or to incorporate the resources with culturally appropriate protection and management criteria based on PRC Section 21084.3.
7. Determine Mitigation Measures: When avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the evaluating archaeologist. Upon completion of the archaeological evaluation, a report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the NWIC.
8. Authorize Data Recovery and Curation: To mitigate potential impacts to the buried resources and as part of (6 and) above, a data recovery program or a Tribal Cultural Resources Treatment Plan should be prepared by an approved archaeologist for review by the City. The data recovery shall involve implementation of surface collection and curation/repatriation of artifacts to prevent looting. All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the NWIC.

9. Stop Work/Follow Statutory Procedures when Human Remains are Encountered: In the event of the discovery of human remains during ground disturbance activities, all activities within a 50-foot radius of the find shall be stopped. Pursuant to Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains.
    - The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American origin or whether an investigation into the cause of death is required.
    - If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. The NAHC shall identify the descendants of the deceased Native American, also known and designated as the most likely descendent (MLD).
    - The MLD will inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist should recover scientifically valuable information, as appropriate and in accordance with the recommendations of the Native Americans in accordance with CEQA Guidelines Section 15064.5 (e).
    - The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting data recovery, methodologies, and results shall be submitted to Director of Planning, Building and Code Enforcement and the NWIC.
    - If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner/project applicant shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
10. Maintain Confidentiality: As required under PRC Section 21084.3, protect the confidentiality of the resources. The Tribal Cultural Resources Treatment Plan Report and all pertinent data and results shall be subject to the confidentiality as an exception to the Public Resources Act and will not be available for public review or distribution. The site of any reburial of Native American human remains shall be kept confidential and not be disclosed pursuant to the California Public Records Act, California Government Code §§ 6254.10, 6254(r). The County Medical Examiner shall also withhold public disclosure of information related to such reburials pursuant to the exemption set forth in California Government Code § 6254.5(e)

As a result, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resources that is determined by the lead agency (i.e., the City of San José), in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in November 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent; and
- Providing readily accessible areas for recycling by occupants.

City of San José

San Jose Zero Waste Strategic Plan/Climate Smart San Jose

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities. Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling.

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that quality under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

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 utilities and service systems and are applicable to the project.

Policy	Description
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
MS-1.4	Foster awareness in San Jose's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity.

IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, SJW, the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by SJW. The service area of SJW is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water. The site is currently developed with a restaurant building and a two-story storage building. The site currently uses 4,673 gallons of water per day (gpd).[54] A six-inch water line in San Salvador Street delivers water to the site.

Wastewater Services

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City Department of Environmental Services. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[55] The City generates approximately 69.8 million gallons per day (mgd) of dry weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

There is an existing eight-inch sanitary sewer main in South 2nd Street and six-inch sewer line in San Salvador Street, which may serve the project site. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 95 percent of the total on-site water use. The existing buildings are estimated to generate approximately 4,439 gpd of wastewater.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 0.35 miles east of Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

[54] Water usage rates were calculated using CalEEMod Appendix D (Fast Food Restaurant w/o Drive Thru). CalEEMod. "Table 9.1: Water Use Rates." Accessed February 17, 2021. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.
[55] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed August 12, 2020. http://www.sanjoseca.gov/?nid=1663.

Currently, the project site is 93 percent (approximately 30,611 square feet) covered with impervious surfaces. There is an existing 24-inch storm drain main along the San Salvador Street project frontage, which would serve the project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[56]

All solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2020 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2041.[57] The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.[58]

The site currently contains a commercial building used as a restaurant and a two-story storage building that generate approximately 26 pounds of solid waste per day.[59]

4.19.2 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) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐

[56] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.
[57] North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.
[58] Ibid.
[59] CalRecycle. "Estimated Solid Waste Generation Rates." Accessed February 17, 2021. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates. Based on the generation rate of 0.005 lb/sqft/day. 5,283 square feet of restaurant.

	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:					
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

The proposed project would result in of 540 new residential units which would add approximately 1,723 residents to the site. The water use expected for the proposed project would be approximately 73,440 gallons per day. As stated above the wastewater consumption assumed for residential developments in the General Plan FEIR is 95 percent of total water usage, therefore the proposed project would create approximately 69,768 gallons of wastewater per day. [60]

Water Use

The Downtown Strategy 2040 FEIR determined that through compliance with General Plan policies for use of recycled water and high efficiency design features the future planned development in the

[60] Water Use Rate = 136 gallons/unit/day x 540 units = 73,440 gallons per day
Harvie, Nicole. City of San José. "Fwd: Online Form Submittal: Contact Environmental Services" E-mail to David J. Powers and Associates, Inc. February 26, 2018.

City would result in less than significant impacts on water use. The proposed project would be consistent with the General Plan land use assumptions for the project site and would comply with all water consumption policies to reduce water use on -site. Therefore, the proposed project would result in a less than significant impact on water consumption and would not require the construction of new or expanded water facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Wastewater and Sanitary Sewer

The Downtown Strategy 2040 FEIR determined that wastewater generated by proposed growth in the downtown area would increase the demand for wastewater carrying capacity of systems in the City. The Downtown Strategy identified the following measures to reduce the demand of new development on wastewater disposal systems:

Measures Included in the Project to Reduce and Avoid Impacts to the Sanitary Sewer System

- At the time future projects are proposed, the City will evaluate the sewer system to determine if there is adequate capacity to serve the development, based on the City's level of service objectives (GP Policies IN-3.1 and IN-3.3).
- New development that could cause downstream level of service to drop below LOS D or would be served by downstream lines already operating at an unacceptable LOS will be required to improve the level of service to "D" or better, either independently, jointly with other developments in the area, or in coordination with the City's Sanitary Sewer CIP (GP Policy IN-3.5).
- The City may consider financing improvements to the sewer system in the Downtown area through the payment of special taxes or connection fees by development under Downtown Strategy 2040 (Policy IP-15.2)

In addition to these policies the proposed project would integrate an on-site wastewater recycling facility to provide treatment for wastewater produced by the proposed project. It is estimated that approximately 21,820 gpd would be treated on the project site and returned to the proposed project as recycled water for non-potable uses. The remaining 45,364 gpd of wastewater generated by the project would be directed to the City's municipal wastewater conveyance system and treated at the Facility. The project would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity to accommodate wastewater generated by the proposed project. This would result in a reduction of the wastewater released into the wastewater system operated by the City.

With the implementation of these policies the Integrated FEIR determined that future development in the downtown area would not result in the need for additional wastewater treatment facilities. Therefore, because the proposed project is consistent with the General Plan designation of the project site, the proposed project would have a less than significant impact on wastewater and sanitary sewer systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

Stormwater Drainage

The proposed project is located within downtown area which is predominately developed and paved. It was determined that implementation of the Downtown Strategy 2040 would not require or result in

the construction of a new storm water facilities or expansion of existing facilities. Additionally, implementation of the Downtown Strategy and 2040 General Plan policies would ensure that sufficient storm drainage facilities are incorporated into development plans and new development or redevelopment projects would not conflict with the use, operation, or maintenance of any existing storm drain lines. The proposed project would comply with existing stormwater management policies and would include measures to control stormwater on the project site. Therefore, the proposed project would not require additional drainage infrastructure to serve the site and would result in a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Electric Power, Natural Gas, or Telecommunications Facilities

The project would comply with CALGreen and the City's Private Sector Green Building Policy and would be consistent with planned growth in the Downtown Strategy 2040. Additionally, the project would comply with the policies and regulations identified in the Downtown Strategy 2040 FEIR. The project would utilize existing utility connections to connect to the City's electric, natural gas, and telecommunications facilities. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Although the projected water demand would increase by 65,468 gallons per day, SJW concluded that the increase was already accounted for in SJW's 2015 UWMP. The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce demand for water generated by current and future development. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in downtown. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As noted above, wastewater generated by the proposed project would be treated at the Facility and at an independent wastewater treatment facility located on-site. The independent wastewater treatment facility would have capacity to treat between 30,000 and 35,000 gpd and would serve both the proposed project and Bo-Town project. If the Bo-Town project is approved, it is estimated that 21,820 gpd of the project's wastewater would be treated at the Bo-Town site and the remaining 47,948 gpd would be treated at the Facility.

The proposed project would be consistent with planned growth from build out of the Downtown Strategy 2040. Development allowed under the Downtown Strategy 2040 would not exceed the

City's allocated capacity at the Facility; therefore, implementation of the project would have adequate capacity to serve the project's projected demand in addition to the Facility's existing commitments. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project would generate approximately 2,333 pounds of waste per day for the residential and retail components of the proposed project. [61] This represents a net increase of 2,307 pounds per day, compared to existing conditions. Based on the Downtown Strategy FEIR, build out of the Downtown Strategy 2040 could generate approximately 102,572 tons of solid waste per year. As mentioned previously, NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project.

Future development under the Downtown Strategy 2040, including the proposed project, would be required to comply with existing federal, state, and local programs and regulations. Therefore, implementation of the project would not generate solid waste in excess of state or local standards. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Consistent with CALGreen requirements, the proposed project would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

[61] Multifamily waste generation = 29.9 lbs/unit per week x 540 units / 7 days per week = 2,307 lbs/day
Retail Waste Generation = 6,406 sq.ft. / 1167 sq. ft. per employee x 1719 lbs/employee/year / 365 days per year
CalRecycle. "Estimated Solid Waste Generation Rates." Accessed February 17, 2021. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[62] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

The project site is located in the downtown area and would not be located in a High Fire Hazard Severity area as defined by Cal Fire.[63]

4.20.2 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
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐

[62] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345

[63] CALFire. "Wildland Hazard & Building Codes." Accessed October 8, 2021. https://egis.fire.ca.gov/FHSZ/.

	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
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		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
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☒	☐	☐	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐

1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Implementation of the proposed project could result in a significant impact air quality, cultural resources, and noise impacts. The project's impact on the identified resource sections are evaluated in detail in the SEIR.

2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The proposed project would result in temporary water quality, biological, hazardous and hazardous materials, and hydrology and water quality impacts during construction. With implementation of the identified Standard Permit Conditions, and measures identified in the Downtown Strategy 2040 FEIR, BMPs, mitigation measures, and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts is temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on water quality, hazards and hazardous materials, and biological resources.

Implementation of the proposed project could result in the loss of two trees. Any tree removed would be replaced in accordance with the City's Standard Tree Replacement Ratios (refer to Table 4.4 2). The project also proposed to plant additional trees in excess of the replacement requirements. The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable long-term impact on biological resources.

The project is consistent with planned growth in the downtown area and would not, by itself, result in significant emissions of criteria air pollutants or GHG. Therefore, the project would not result in a cumulatively considerable impact.

As discussed in the respective sections, the proposed project would have no impact, a less than significant impact, or a less than significant impact with mitigation on aesthetics, agriculture and forestry resources, geology and soils, land use, mineral resources, population and housing, public services, recreation, and utility and service facilities. The project would not have a cumulatively considerable impact on these resource areas.

3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While

changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. Implementation of applicable regulations and policies, Standard Permit Conditions, and mitigation measures would reduce the impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

SECTION 5.0 REFERENCES

The analysis in this Initial Study/Addendum 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:

ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.

AEI Consultants. Phase I Environmental Site Assessment. January 25, 2021.

Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." Accessed August 31, 2021. http://projectmapper.planbayarea.org/.

Association of Bay Area Governments. "Tsunami Maps and Information." Accessed November 12, 2020. http://resilience.abag.ca.gov/tsunamis/.

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

Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries." Accessed November 15, 2021. Available at: http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

CalEEMod. "Table 9.1: Water Use Rates." Accessed February 17, 2021. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 10, 2021. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

California Air Resources Board. "The Advanced Clean Cars Program." Accessed September 15, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

California Building Standards Commission. "California Building Standards Code." Accessed September 28, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed June 23, 2021. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

California Department of Conservation. Important Farmland Finder. Accessed February 3, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

California Department of Education. Abraham Lincoln High School Accountability Report Card. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696664333795?year=2019-2020.

California Department of Education. Gardner Elementary School Accountability Report Card. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696666048532?year=2019-2020.

California Department of Education. Herbert Hoover Middle School Accountability Report Card. Accessed February 17, 2021. https://admin.sarconline.org/Sarc/Print/43696666062111?year=2019-2020.

California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed August 31, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.

California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed August 31, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Department of Water Resources, Division of Safety of Dams. Accessed June 9, 2020. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD).

California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed September 28, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Energy Commission. "Natural Gas Consumption by County." Accessed August 31, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.

California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed August 31, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Gas and Electric Utilities. 2019 California Gas Report. Accessed August 31, 2021. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

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

California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed February 3, 2021. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

California Regional Water Quality Control Board. San Francisco Bay Region Municipal Regional Stormwater NPDES Permit. November 2015.

CalRecycle. “Estimated Solid Waste Generation Rates.” Accessed February 17, 2021. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

Case, Jill. Director of Student Operational Services. San José Unified School District. Personal Communication. March 27, 2020.

City of San José, City of San José. Annual Report on City Services 2019-20. Accessed February 12, 2021. https://www.sanjoseca.gov/home/showpublisheddocument?id=67957.

City of San José. Downtown Strategy 2040 FEIR. December 2018. https://www.sanjoseca.gov/Home/ShowDocument?id=44054.

City of San José. Greenhouse Gas Reduction Strategy. November 2020. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed August 12, 2020. http://www.sanjoseca.gov/?nid=1663.

County of Santa Clara. Geologic Hazards Zones, Map 20, 2012. Accessed June 23, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth. Quaternary Geology of Santa Calra Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database. May 1994.

Fehr and Peers. Bo Town Residential Local Transportation Analysis (LTA). March 2022.

FEMA. Flood Insurance Rate Map: Santa Clara County Panel 234 of 830. Map Number 06085C0234H. May 18, 2009.

Harvie, Nicole. City of San José. “Fwd: Online Form Submittal: Contact Environmental Services” E-mail to David J. Powers and Associates, Inc. February 26, 2018.

HMH. Certified Tree Inventory. December 28, 2020.

Holman and Associates Archeological Consultants. Archaeological Literature Search for Bo Town Mixed Use Project at 409 South 2nd Street. March 30, 2021.

Illingworth and Rodkin. Bo Town Mixed-Use Project Air Quality Assessment. November 12, 2021.

Illingworth and Rodkin. Botown Mixed-Use Project Noise and Vibration Assessment. November 11, 2021.

J. McLaughlin, J.C. Clark, E.E. Brabb, E.J. Helley, and C.J. Colon. USGS. Geologic Maps and Structure Sections of the Southwestern Santa Clara Valley and Southern Santa Cruz Mountains, Santa Clara and Santa Cruz Counties, California. 2001.

Metropolitan Transportation Commission. Transit Priority Areas (2017). Accessed September 13, 2021. http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-121.930%2C37.306%2C-121.898%2C37.312.

North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.

Odell Planning and Research, Inc. Development Fee Justification Study Prepared for the San José Unified School District. April 2014

Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed August 31, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Santa Clara County. Five-Year CIWMP/RAIWMP Review Report. June 2016.

Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed February 3, 2021. http://www.hcpmaps.com/habitat/.

Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed November 12, 2020. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.

Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed November 12, 2020. https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf.

Santa Clara Valley Water District. Groundwater Management Plan. November 2016.

State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2019.

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

TreanorHL. Historic Resource Assessment & Design Guidelines and Standards Compliance Review. July 6, 2021.

United States Department of Agriculture. Soil Survey: Elpaloalto Series. Accessed: June 23, 2021. https://soilseries.sc.egov.usda.gov/OSD_Docs/E/ELPALOALTO.html.

United States Department of Energy. Energy Independence & Security Act of 2007. Accessed August 31, 2021. http://www.afdc.energy.gov/laws/eisa.

United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 31, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.

United States Energy Information Administration. “State Profile and Energy Estimates, 2019.” Accessed August 31, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.

United States Environmental Protection Agency. “The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975.” March 2019.

United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.). 2016. Accessed February 12, 2021. https://mywaterway.epa.gov/community/95050/overview.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Chris Burton - Director of Planning, Building, and Code Enforcement for the City of San Jose
David Keyon - Principal Planner, City of San José Planning Department
Kara Hawkins - Planner, City of San José Planning Department

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Shannon George – Principal Project Manager
Patrick Kallas – Associate Project Manager
Ryan Osako – Graphic Artist

AEI Consultants
Phase I Environmental Site Assessment
Tory Golino

Illingworth & Rodkin, Inc
Acoustic and Air Quality Consultants
James Reyff, Principal
Michael Thill
Casey Divine
Carrie Janello

TreanorHL
Archaeologist and Historian
Kimberly Butt, Principal
Elizabeth Graux, Architect

Holman and Associates
Cultural Resources Assessment
Sunshine Psota

HMH
Certified Tree Assessment
William Sowa

Fehr and Peers
Traffic Consultants
Mark Soendjojo
Steve Davis